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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Belize, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 21 December 2001 from the Minister Counsellor of the Permanent Mission of Belize to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour of enclosing a report from Belize to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

I should be grateful if the text of the present note and the enclosed report could be circulated as a document of the Security Council.

(*Signed*) Janine **Coye Felson**
Minister Counsellor

Enclosure

Belize's Counter-terrorism preliminary report pursuant to Security Council resolution 1373 (2001)

1. The following questions indicated by 'operative paragraph' and 'sub-paragraphs' refers to each numbered paragraph of the UN resolution 1373 that is due before or on the 27th December 2001. This particular reporting format was developed by the United Nations Counter Terrorism Committee for implementation by member states.

Operative Paragraph 1

Sub-paragraph (a) - What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

The Government of Belize has adopted a three-pronged approach to implement UN Security Council resolutions, including Resolution 1373: (1) to enact a United Nations Resolutions and Conventions (Enforcement) Act to give effect to UN Resolutions and Conventions; (2) to strengthen the Money Laundering (Prevention) Act to freeze the assets of terrorists and money launderers without delay and (3) to accede to and ratify the relevant UN conventions.

i. In this regard, the United Nations Resolutions and Conventions (Enforcement) Bill, 2001, was introduced into the House of Representatives on 7 December 2001. It is an enabling measure that empowers the Minister of Foreign Affairs to make an order containing such provisions as may be necessary to implement a resolution of the Security Council, passed under Chapter 7 of the UN Charter. It also enables the Minister of Foreign Affairs to give effect to any UN Convention signed by Belize. Every such Order shall be laid before the National Assembly and shall be subject to negative resolution.

ii. The Money Laundering (Prevention) (Amendment) Bill, 2001, was introduced into the House of Representatives on 7 December 2001; it amends the Money Laundering (Prevention) Act, 1996 to make improved provisions to combat terrorism and to provide for the speedy freezing of funds and other financial assets of terrorists and money launderers.

Sub-paragraph (b) - What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

Punishment for offences will be the same for Money Laundering offences outlined in the Money Laundering Act, Chapter 104, Part II, No. 4 provides: A person of an offence is guilty of an offence under the provisions of the Money Laundering Prevention Act (1996) shall be punishable on conviction with a fine which shall not be less than $25,000 but which may extend to $100,000 or with imprisonment for a term which shall not be less than three years, but which may extend to $100,000 or with imprisonment for a term which shall not be less than three years, but which may extend to six years, or to both such fine and terms of imprisonment.

Sub-paragraph (c) - What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

Please refer to Section 19 of the Money Laundering Prevention Act, which details the existing procedures for freezing of accounts and assets at banks and financial institutions.

The main amendments contained in the Money Laundering (Prevention) (Amendment) Bill, 2001 are summarized as follows:

i. It would enable the Supervisory Authority (Governor Central Bank) to instantly freeze funds and financial assets of any person, to facilitate any investigation, prosecution or proceeding for a money laundering offence, whether in Belize or elsewhere.

ii. A new Section 11A is being added to make a specific provision to freeze funds connected with terrorism: the power to freeze funds is given to the Supervisory Authority, but the affected person will have a right to apply to the Supreme Court to have the Order set aside.

iii. Section 23 of the principal Act, which deals with international cooperation in money laundering offences, is being amended to delete subsection (6) which states that "assistance referred to in this section shall be provided only to those countries with whom Belize has entered into mutual legal assistance treaties on a bilateral or multilateral basis."

iv. In the context of international cooperation, the Supervisory Authority is being empowered to take such action as may be necessary, including the freezing of assets, to give effect to a decision or recommendation of the Security Council.

v. The First Schedule to the principal Act which contains a list of activities falling within the purview of the Money Laundering (Prevention) Act is being expanded to include international financial services, legal services and accounting services.

Sub-paragraph (d) - What measures exist to prohibit the activities listed in this sub-paragraph?

See Section 20 of the Act which provides for the forfeiture of property, proceeds and instrumentalities derived from or related to the offence.

Section 13 of the Act places an obligation upon financial institutions to report any suspicious business transactions.

In addition, the Supervisory Authority of Central Bank has circulated the lists of names of individuals and organizations suspected to be involved in terrorism to financial institutions, including offshore practioners, requesting them to check their customers' database and notify Central Bank if any of the listed persons has conducted business.

Currently financial institutions are being encouraged to implement new measures in compliance with international standards to combat terrorism.

Operative Paragraph 2

Sub-paragraph (a) - What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

The Special Branch of the Belize Police Department, under its terms of reference, is to gather intelligence and target terrorists/ subversive groups.

Under the firearms act, any person or persons carrying a firearm without a license commits an offence. Similarly under our Customs Regulations, a person can be charged up to three times the value of the goods for not declaring it.

Sub-paragraph (b) - What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

At present, the Belize Police Department has in place the Joint Intelligence Coordinating Center (JICC) which collates all intelligence on criminal matters from all government agencies. JICC also has the INTERPOL desk which gives the most recent, up dated, list of any wanted persons. In turn, this information is then disseminated to the relevant agencies, including all ports of entry. JICC is also tasked to share information with their respective foreign counterparts. There is also a close working relationship between JICC and the U.S.A.'s resident Drug Enforcement Agency (DEA) office in Belize in terms of foreign requests and intelligence gathering.

Sub-paragraph (c) - What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

Providing that the Unit's whose responsibility within the Belize Police Department is to identify and gather intelligence are notified within a reasonable time, they can update their watch list at all ports of entry in order to stop unwanted persons from entering the country.

If the person has entered the country under the immigration law, once the identity of the person has been confirmed, such a person can be extradited.

Presently, immigration law does not include specific reference to terrorism. Nevertheless, the law does have procedures whereby any person who, in the Minister's view, is a threat to security of Belize can be expelled immediately or refused entry by an Immigration Officer. If and when that individual may have obtained Belizean citizenship the law also states the Minister can revoke citizenship on the basis that he/she was granted citizenship by error or false pretence.

Sub-paragraph (d) - What legislation or procedures exists to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

Once a person is identified as a terrorist, or as being involved in terrorist activities, he/she may be extradited under the provisions of the Extradition Act and his/her assets may be forfeited under the Money Laundering Prevention Bill.

Sub-paragraph (e) - What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

At present, this offence concurs with the enactment of legislation entitled the "Suppression of Terrorism Act" geared toward making acts specifically related to terrorism offences.

Sub-paragraph (f) - What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

The Extradition Act, Chapter 112 of the Laws of Belize, includes a clause which states that a person who commits offences relating to the law of terrorism can be extradited.

In January 2002, Belize ratified a Mutual Assistance Treaty on Criminal matters with the United States of America. This treaty provides for the sharing of information/ documents and the freezing and seizure of assets. The USA has not yet ratified the treaty. However, the Money Laundering Prevention Bill allows

for general information sharing and assistance by withdrawing such obligations to occur solely through Mutual Assistance Treaties.

Sub-paragraph (g) - How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

At present the Belize Defence Force (BDF) and Belize Police Department conduct border patrols at key border crossing areas, especially between the Belize/Guatemala border. In other instances, (police, BDF, Customs and Immigration) using the multi-agency approach, conduct operations within our borders and territorial waters, targeting offences pertaining to their respective agency.

Our Immigration ports of entry do not yet have computers so everyone passing in and out of Belize is processed manually. However, many of our officers have training in identification of false documentation and from time to time at the Belize Western border some persons have been detected with false passports. Our ports of entry also have ultraviolet lamps ("Black Lights") which officers can use in the event they are suspicious of a document especially if the document used (i.e.) passports has security features which can be seen under the said mechanism.

Operative Paragraph 3

Sub-paragraph (a) - What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

(See responses at sub-paragraph c below.)

Sub-paragraph (b) - What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

Information has been shared both formally and informally on intelligence/criminal matters. Formally, we have been using the Money Laundering Prevention Act and the Code of Conduct (IFSP)-International Financial Services Practioners (Code of Conduct) –to respond to request made through the Attorney General's Office. Informally, intelligence has been shared between several foreign agencies, including the U.S. Drug Enforcement Agency (DEA).

Sub-paragraph (c) - What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

At present, we have a bilateral Mutual Assistance Treaty with the USA. Some Conditions under the treaty include the transfer of persons in custody and the service of documents and search and seizure etc.

Belize is a signatory to the Central American Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities.

Belize is working with Caribbean countries in adopting bilateral and multilateral treaties to combat terrorism and related activities.

Sub-paragraph (d) - What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

The Government of Belize as mentioned in Operative Paragraph 1 will accede to relevant UN Conventions.

Sub-paragraph (e) - Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Belize has signed or ratified the following specialized conventions which provide the international legal framework for combating terrorism:

a. International Convention for the Suppression of the Financing of Terrorism (1999)
b. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)
c. International Convention for the Suppression of Terrorist Bombings (1998)
d. Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)
e. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)
f. Hague Convention for the Unlawful Seizure of Aircraft (1970)
g. Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)
h. Convention on the Physical Protection of Nuclear Materials (1979)
i. Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971)

In addition, the Cabinet has approved signing or ratifying the remaining three conventions in this framework:

j. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988).
k. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
l. Convention Against the Taking of Hostages (1979)

Sub-paragraph (f) - What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

The Refugee Act of 1991 allows for the appointment of an Eligibility Committee to determine whether or not a person will be accepted as a recognized Refugee in Belize. Since 1998 no new refugee application has been processed. Under the present law an applicant is required to undergo security vetting before he or she is granted refugee status in Belize.

Every person who now comes to Belize and requests refugee status goes to Help for Progress. Help for Progress is a local non-governmental agency which the UNHCR has assigned residual liaison responsibility since the return to peace and stability in Central America and the withdrawl of the agency from Belize. These persons who are referred to the Immigration Department from Help for Progress are assisted with obtaining legal status and advised to apply for residency or citizenship when they have satisfied the legal requirements. Any person who acquires Belizean citizenship must be cleared by a Security/ Interpol check done by the Special Branch of the Belize Police Department.

Sub-paragraph (g) - What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

As mentioned above, due to the return to peace in Central America, no application for refugee status has been processed since 1998.

Assistance requested of the UN Counter-Terrorism Committee

Belize's law enforcement agencies need assistance in the forms of technical and advisory services, so as to better prevent and prove crimes of conspiracy, aiding and abetting.

Attachment 1

CHAPTER 104

MONEY LAUNDERING (PREVENTION)

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SECOND SCHEDULE

CHAPTER 104

MONEY LAUNDERING (PREVENTION)

12 of 1996.
Commencement
[1. 8. 1996]
S.I. 104 of 1996.

[*26th July, 1996*]

PART I

Preliminary

Short title.

1. This Act may be cited as the Money Laundering (Prevention) Act.

Interpretation.

2.(1) In this Act, unless the context otherwise requires-

"business transaction" means any arrangement, including opening an account, between two or more persons where the purpose of the arrangement is to facilitate a transaction between the persons concerned and includes any related transaction between any of the persons concerned and another person;

"business transaction record" includes where relevant to a business transaction -

(a) the identification of all the persons party to that transaction;

(b) a description of that transaction sufficient to identify its purpose and method of execution;

(c) the details of any account used for that transaction, including bank, branch and sort code; and

(d) the total value of that transaction;

"competent authority" means the Director of Public Prosecutions, and

includes any person authorized by him in that behalf;

"financial institution" means any person whose regular occupation or business is, for the account of that person, the carrying on of -

(a) any activity listed in the First Schedule to this Act; First schedule.

(b) any other activity defined by the Minister of Finance as such by an Order published in the *Gazette* amending the First Schedule to this Act; First schedule.

"freezing" means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

"forfeiture" means the permanent deprivation of property by Order of a court or other competent authority;

"identification record" means -

(a) where the person is a corporate body, the details -

(i) of the certificate of incorporation, such certificate to be notarized where the corporate body is incorporated outside of Belize;

(ii) of the most recent annual return of the corporate body filed at the General Registry, such return to be notarized where the corporate body is incorporated outside of Belize;

(iii) of any officer of the corporation as required in paragraph *(b)* of this definition;

(b) otherwise, sufficient documentary evidence to prove to the satisfaction of a financial institution that the person is who that person claims to be,

and, for these purposes, "person" shall include any person who is a nominee, agent, beneficiary or principal in relation to a business transaction;

"instrumentality" means something that is used, or intended for use, in any manner in the commission of a money laundering offence;

"Minister" means the Minister responsible for legal affairs, unless specifically provided otherwise;

"money laundering" means -

(a) engaging, directly or indirectly, in a transaction that involves property that is the proceeds of crime, knowing or having reasonable grounds for believing the same to be the proceeds of crime; or

(b) receiving, possessing, managing, investing, concealing, disguising, disposing of or bringing into Belize any property that is the proceeds of crime, knowing or having reasonable grounds for believing the same to be the proceeds of crime;

"person" means any entity, natural or juridical, including among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organisation or group, capable of acquiring rights or entering into obligations;

"prescribed offence" means an offence for the time being listed in the Second Schedule to this Act; Second Schedule.

"proceeds of crime" means any property derived or obtained, directly or

indirectly, through the commission of a prescribed offence, whether committed in Belize or elsewhere; and shall include any property which is knowingly mingled with property that is so derived or obtained;

"property" includes money, investments, holdings, possessions, assets and all other property real or personal, heritable or moveable, including things in action and other intangible or incorporeal property wherever situate (whether in Belize or elsewhere) and includes any interest in such property;

"Supervisory Authority" means the Governor, for the time being, of the Central Bank of Belize, and includes any person authorized by him in writing in that behalf.

(2) The Minister may from time to time by Order published in the *Gazette* amend the Second Schedule to this Act. Second Schedule.

(3) Knowledge, intent, purpose, belief or suspicion required as an element of any offence under this Act may be inferred from objective, factual circumstances.

PART II

Money Laundering Prohibited

3. A person who, after the commencement of this Act, engages in money laundering is guilty of an offence. Offence of money laundering.

4. Where an offence under the provisions of section 3 is committed by a body of persons, whether corporate or unincorporate, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, shall be guilty of that offence, unless he adduces evidence to show that the offence was committed without his knowledge, consent or connivance. Offence committed by a body of persons.

Attempts; aiding and abetting; conspiracy.

5. Any person who attempts or who aids, abets, counsels, or procures the commission of, or who conspires to commit, the offence of money laundering is guilty of an offence.

Penalty for money laundering.

6. A person guilty of an offence under the provisions of section 3, 4 or 5 of this Act shall be punishable on conviction with a fine which shall not be less than twenty-five thousand dollars but which may extend to one hundred thousand dollars, or with imprisonment for a term which shall not be less than three years but which may extend to six years, or with both such fine and term of imprisonment.

Tipping-off.

7.-(1) It is an offence for a person who knows or suspects that an investigation into money laundering has been, is being, or is about to be, made to divulge that fact or other information to another whereby the investigation is likely to be prejudiced.

(2) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding three years, or to both such fine and term of imprisonment.

Falsification, concealment, etc., of documents.

8.-(1) It is an offence for a person to falsify, conceal, destroy or otherwise dispose of or cause or permit the falsification, concealment, destruction or disposal of any document or material which is or likely to be relevant to an investigation into money laundering or to any order made in accordance with the provisions of this Act.

(2) A person guilty of an offence under subsection (1) above shall be liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or to both such fine and term of imprisonment.

Jurisdiction.

9. Notwithstanding anything to the contrary contained in any other law, the offences created by this Act shall be investigated, tried, judged and

sentenced by a court in Belize regardless of whether or not the prescribed offence occurred in Belize or in another territorial jurisdiction, but without prejudice to extradition when applicable in accordance with the law.

PART III

Anti-Money Laundering Supervision

Appointment of Supervisory Authority.

10. The functions of the Supervisory Authority as provided in this Act shall be carried out by the Governor, for the time being, of the Central Bank of Belize or by any person authorized by him in writing in that behalf.

Powers of the Supervisory Authority.

11. The Supervisory Authority -

(a) shall receive the reports issued by the financial institutions pursuant to the provisions of section 13 (2);

(b) shall send any such report to the law enforcement authorities if, having considered the report, the Supervisory Authority also has reasonable grounds to believe that a money laundering offence is being, has been or is about to be committed;

(c) or a person authorised by the Supervisory Authority for such a purpose, may, if there are reasonable grounds for believing that a contravention or breach of this Act may have occurred; enter into the premises of any financial institution during normal working hours to inspect any business transaction record kept by that financial institution pursuant to the provisions of section 12 *(a)* and ask any questions relevant to such record and make any notes or take any copies of the whole or any part of any such record;

(d) shall send to the law enforcement authorities any information derived from an inspection carried out pursuant to the

provisions of paragraph *(c)* of this section if it gives the Supervisory Authority reasonable grounds to believe that a money laundering offence is being, has been, or is about to be committed;

(e) shall destroy any note or copy thereof made or taken pursuant to the provisions of paragraph *(c)* of this section within three years of the inspection save where any such note or copy has been sent to a law enforcement authority;

(f) may instruct any financial institution to take such steps as may be appropriate to facilitate any investigation anticipated by the Supervisory Authority following a report or investigation made under the provisions of this section;

(g) may compile statistics and records, provide information to law enforcement agencies and regulatory bodies within or without Belize in accordance with Part V of this Act, make recommendations arising out of any information received, issue guidelines to financial institutions and advise the Minister of Finance and the Attorney General with regard to any matter relating to money laundering;

(h) shall create training requirements and provide such training for any financial institution in respect of the business transaction record-keeping and reporting obligations as provided in paragraph *(a)* of section 12, and subsection (2) of section 13, respectively.

Obligations of financial institutions.

12. A financial institution shall -

(a) keep a business transaction record of any business transaction for a period of five years after the termination of the business transaction so recorded;

(b) comply with any instruction issued to it by the Supervisory Authority pursuant to section 11 *(f)*;

(c) permit any member of the Supervisory Authority upon request to enter into any premises of the financial institution during normal working hours and inspect the records kept pursuant to the provisions of paragraph *(a)* of this section and make any notes or take any copies of the whole or any part of any such record and shall answer any questions of the Supervisory Authority in relation to such records;

(d) comply with the guidelines and training requirements issued and provided by the Supervisory Authority respectively in accordance with paragraph *(g)* or *(h)* of section 11.

Reporting of suspicious business transactions by financial institutions.

13.-(1)Financial institutions shall pay special attention to all complex, unusual or large business transactions, or unusual patterns of transactions whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.

(2) Upon reasonable suspicion that the transactions described in subsection (1) above could constitute or be related to money laundering, a financial institution shall promptly report the suspicious transactions to the Supervisory Authority.

(3) Financial institutions shall not notify any person, other than a court, competent authority or other person authorized by law, that information has been requested by or furnished to a court or the Supervisory Authority.

(4) When the report referred to in subsection (2) above is made in good faith, the financial institutions and their employees, staff, directors, owners or other representatives as authorised by law, shall be exempted

from criminal, civil and/or administrative liability, as the case may be, for complying with this section or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

(5) A criminal offence is committed by a financial institution or its employees, staff, directors, owners or other authorised representatives who, acting as such, wilfully fail to comply with the obligations in this section, or who wilfully make a false or falsified report referred to above.

(6) Without prejudice to criminal and/or civil liabilities for offences connected to money laundering, a financial institution ,and its employees that fail to comply with the requirements of this section shall be liable on conviction to a fine not exceeding fifty thousand dollars and in addition the licence of such financial institution to operate as such may be suspended or revoked by the Supervisory Authority.

(7) The question whether a reasonable suspicion for the purpose of subsection (2) of this section has been formed shall be determined objectively having regard to all the facts and surrounding circumstances.

Supervisory Authority's power to obtain search warrant.

14. The Supervisory Authority or a law enforcement agency, upon application to a Judge of the Supreme Court and satisfying him that there are reasonable grounds to believe that -

(a) a financial institution has failed to keep a business transaction record as provided by the provisions of section 12 *(a)*;

(b) a financial institution has failed to report any business transaction as provided by the provisions of section 13 (2); or

(c) an officer or employee of a financial institution is committing, has committed or is about to commit a money laundering offence,

may obtain a warrant to enter any premises belonging to, in the possession or under the control of the financial institution or any officer or employee of such institution and to search the premises and remove any document, material or other thing therein for the purposes of the Supervisory Authority or law enforcement agency as ordered by the Judge and specified in the warrant.

Property tracking and monitoring orders.

15. The Supervisory Authority or law enforcement agency, upon application to a Judge of the Supreme Court and satisfying him that there are reasonable grounds for believing that a person is committing, has committed or is about to commit a money laundering offence or for the purpose of determining whether any property belongs to, or is in the possession or under the control of any person, may obtain an order:-

(a) that any document relevant to-

(i) identifying, locating or quantifying any property; or

(ii) identifying or locating any document necessary for the transfer of any property,

belonging to, or in the possession or under the control of that person be delivered forthwith to the Supervisory Authority or law enforcement agency;

(b) that a financial institution forthwith produce to the Supervisory Authority or law enforcement agency all information obtained by the institution about any business transaction conducted by or for that person with the institution during such period before or after the date of the order as the Judge directs.

Mandatory injuction to enforce compliance.

16.-(1)The Supervisory Authority, upon application to a Judge of the Supreme Court and satisfying him that a financial institution has failed without reasonable excuse to comply in whole or in part with any obligation as provided in paragraph *(a)*, *(b)*, *(c)* and *(d)* of section 12 and subsection (2) of section 13, may obtain a mandatory injunction against any or all of the

officers or employees of that financial institution in such terms as the Court deems necessary to enforce compliance with such obligation.

(2) In granting an injunction pursuant to subsection (1) of this section, the Court may order that should the financial institution or any officer or employee of that institution fail without reasonable excuse to comply with all or any of the provisions of that injunction, such financial institution, officer or employee shall pay a financial penalty in the sum and in the manner directed by the Court.

Other measures to avoid money laundering.

17. A person who has been convicted of a prescribed offence (whether in Belize or elsewhere) or of an offence under this Act, may not be eligible or licensed to carry on the business of a financial institution.

Currency reporting when leaving Belize.

18. A person who leaves Belize with more than twenty thousand dollars in cash or negotiable bearer instruments (in Belize currency or equivalent foreign currency) without first having reported the fact to the Supervisory Authority, shall commit an offence under this Act and shall be liable on conviction to a fine not exceeding ten thousand dollars.

PART IV

Freezing and Forfeiture of Assets in Relation to Money Laundering

Restraint order.

19.-(1)Where a person has been charged or is about to be charged with a money laundering offence, the competent authority may make an application to the Supreme Court in accordance with subsection (2) for the freezing of the property of, or in the possession or under the control of that person, which is alleged to be the proceeds of crime, wherever such property may be.

(2) An application made under subsection (1), for a restraint order under subsection (3) in respect of any property may be made on an *ex*

parte application to a Judge in Chambers and shall be accompanied by an affidavit sworn on the information and belief of the competent authority or any other person deposing to the following matters, namely:-

(a) the offence or matter under investigation;

(b) the person who is believed to be in possession of the property;

(c) the grounds for the belief that an order of forfeiture may be made under this Act; and

(d) a description of the property.

(3) Where an application for a restraint order is made to a Judge under subsection (1), the Judge may, if satisfied that there are reasonable grounds to believe that there exists any property in respect of which an order of forfeiture may be made under this Act, make an order-

(a) prohibiting any person from disposing of, or otherwise dealing with, any interest in the property specified in the order otherwise than in such manner as may be specified in the order; and

(b) at the request of the competent authority, where the Judge is of the opinion that the circumstances so require,

(i) appointing a person to take control of and to manage or otherwise deal with all or part of that property in accordance with the directions of the Judge; and

(ii) requiring any person having possession of that property to give possession of the property to the

person appointed under subparagraph *(i)*.

(4) The Court or Judge in making an order under subsection (3) may give directions as to the disposal of that property for the purpose of -

(a) determining any dispute as to the ownership of the property or any part thereof;

(b) its proper administration during the period of freezing;

(c) the payment of moneys to that person for the reasonable subsistence of that person and his family;

(d) meeting the reasonable business and legal expenses of the person referred to in subsection (1); and

(e) permitting the use of the property in order to enter into a recognizance required of that person by a court.

(5) For the purpose of determining the reasonableness of business and legal expenses referred to in subsection (4) *(d)*, a Judge may hold a hearing in chambers.

(6) Before making an order under subsection (3), the Judge may require the competent authority to give such undertakings as the Judge considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and execution of the order.

(7) An order made under subsection (3) shall provide for notice to be given to persons affected by the order in such manner as the Judge directs or as may be prescribed by rules of court.

(8) A copy of the order made under subsection (3) shall be filed in the Registry of the Supreme Court against any property affected by the

order.

(9) An order made under the provisions of this section shall cease to have effect at the end of the period of forty-eight hours following the hour the order was made if the person against whom such order was made has not been charged with a money laundering offence within that time.

(10) Any person to whom notice of an order made under subsection (3) is given in accordance with this section and who, while the order is in force, acts in contravention of or fails to comply with the order is, without prejudice to any other remedy provided at law, guilty of an offence punishable on summary conviction to imprisonment for a term not exceeding two years.

Forfeiture of property, proceeds or instrumentalities.

20.-(1)When a person is convicted of a money laundering offence, the Court shall order that the property, proceeds or instrumentalities derived from or connected or related to such an offence be forfeited and disposed of in such manner as the Minister may direct.

(2) When, as a result of any act or omission of the person convicted, any of the property, proceeds or instrumentalities described in subsection (1) above cannot be forfeited, the Court shall order the forfeiture of any other property of the person convicted, for an equivalent value, or shall order the person convicted to pay a fine of such value.

(3) In determining whether or not any property is derived from or connected or related to a money laundering offence the Court shall apply the standard of proof required in civil proceedings.

(4) In making a forfeiture order the Court may give directions for the purpose of determining any dispute as to the ownership of the property or any part thereof.

(5) For the purpose of this Act, the Court may infer that property

was obtained or derived as a result of the commission of a money laundering offence where evidence established that the value, after the commission of that offence, of all the property of the person alleged to have committed the offence exceeds the value of all the property of that person before the commission of that offence and the Court is satisfied that the income of that person from his legitimate sources as disclosed by him to the Court pursuant to subsection (6) cannot reasonably account for such an increase in value.

(6) A person convicted or absolutely or conditionally discharged of a money laundering offence may be summoned to appear before the Court at the instance of the competent authority and to give information as to his legitimate sources of income.

Rights of *bona fide* third parties.

21.-(1) The measures and sanctions referred to in sections 19 and 20 shall apply without prejudice to the rights of *bona fide* third parties.

(2) Proper notifications shall be made so that all those claiming legitimate legal interest in property, proceeds or instrumentalities may appear in support of their claims.

(3) A third party's lack of good faith may be inferred, at the discretion of the court or other competent authority, from the objective circumstances of the case.

(4) The Court or other competent authority shall return the property, proceeds or instrumentalities to the claimant, when it has been demonstrated to its satisfaction that:-

(a) the claimant has a legitimate legal interest in the property, proceeds or instrumentalities;

(b) no participation, collusion or involvement with respect to the money laundering offence which is the subject of

the proceedings can be imputed to the claimant;

(c) the claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, proceeds or instrumentalities or if he had knowledge, did not freely consent to its illegal use;

(d) the claimant did not acquire any right in the property, proceeds or instrumentalities from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of avoiding the eventual subsequent forfeiture of the property, proceeds or instrumentalities, and

(e) the claimant did all that could reasonably be expected to prevent the illegal use of the property, proceeds or instrumentalities.

Limitations on freezing or forfeiture of property.

22. The provisions of sections 19 and 20 shall only apply to property coming into the possession or under the control of a person after the coming into force of this Act.

PART V

International Cooperation

Assistance to foreign countries.

23.-(1) The Court or other competent authority shall cooperate with the Court or other competent authority of another State, taking the appropriate measures to provide assistance in matters concerning money laundering offences, in accordance with this Act, and within the limits of their respective legal systems.

(2) The Court or other competent authority may receive a request

from the Court or other competent authority of another State to identify, trace, freeze, seize or forfeit the property, proceeds, or instrumentalities connected to money laundering offences, and may take appropriate actions, including those contained in sections 19 and 20 of this Act.

(3) A final judicial order of judgment that provides for the forfeiture of property, proceeds or instrumentalities connected to money laundering offences, issued by a Court or other competent authority of another State, may be recognised as evidence that the property, proceeds or instrumentalities referred to by such order or judgment may be subject to forfeiture in accordance with the law.

(4) The Court or other competent authority may receive and take appropriate measures with respect to a request from a Court or other competent authority from another State, for assistance related to a civil, criminal, or administrative investigation, prosecution or proceedings, as the case may be, involving money laundering offences, or violations of any provision of this Act. Such assistance may include providing original or certified copies of relevant documents and records, including those of financial institutions and government agencies, obtaining testimony in the requested States; facilitating the voluntary presence or availability in the requesting State of persons, including those in custody, to give testimony, locating or identifying persons, service of documents; examining objects and places; executing searches and seizures; providing information and evidentiary items, and provisional measures.

(5) Any provisions referring to bank secrecy or confidentiality shall not be an impediment to compliance with this section, when the information is requested by or shared with the Court or other competent authority.

(6) Assistance referred to in this section shall be provided only to those countries with whom Belize has entered into mutual assistance treaties on a bilateral or multilateral basis, and all such assistance shall be subject to the terms of such treaties.

PART VI

Miscellaneous

Money laundering an offence for extradition purposes.

24. Money laundering is an offence for the purpose of any law relating to extradition or the rendition of fugitive offenders.

Secrecy obligations overridden. CAP. 4.

25. Subject to the provisions of the Belize Constitution, the provisions of this Act shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise.

Disclosure protected.

26. It shall not be unlawful for any person to make any disclosure in compliance with this Act.

Prosecution of offences.

27.-(1)No prosecution in respect of any offence committed under this Act or the Regulations made thereunder shall be instituted except by, or with the consent in writing of, the Director of Public Prosecutions.

(2) All offences under this Act shall be tried summarily without the consent of the accused unless otherwise directed by the Director of Public Prosecutions.

Limitation of proceedings.

28. All prosecutions, actions, suits or other proceedings brought for any offence, or for the recovery of any fines, penalties or forfeitures, under this Act or the Regulations made thereunder, shall be brought within five years next after the date the offence was committed or the cause of action accrued.

Regulations.

29.-(1) The Minister may make Regulations for the better carrying out of the provisions of this Act and for prescribing anything that needs to be prescribed.

(2) All Regulations made under subsection (1) shall be subject to negative resolution.

Commencement.

30. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Gazette*.

FIRST SCHEDULE
[Section 2]

Activities of financial institutions

1. "Banking business" and "financial business" as defined in the Banks and Financial Institutions Act, and in the Schedule to that Act;

CAP. 263.

CAP. 267.

2. "Offshore banking business" as defined in the Offshore Banking Act;

3. Venture risk capital;

4. Money transmission services;

5. Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts);

6. Guarantees and commitments;

7. Trading for own account or for account of customers in:-

(a) money market instruments (e.g., cheques, bills, certificates of deposits, commercial paper, etc.);

(b) foreign exchange;

(c) financial and commodity-based derivative instruments (e.g., futures, options, interest rate and foreign exchange instruments, etc.);

(d) transferable or negotiable instruments;

8. Money broking;

9. Money lending and pawning;

10. Money exchange (e.g., casa de cambio);

11. Insurance business;

12. Real property business;

13. Credit unions;

14. Building societies;

15. Trust business;

16. Safe custody services.

SECOND SCHEDULE
[Section 2]

Prescribed offences

Blackmail

Counterfeiting

Drug Trafficking and related offences

Extortion

False accounting

Forgery

Fraud

Illegal deposit-taking

Robbery involving more than $10,000.00

Terrorism

Thefts involving more than $10,000.00

Arms trafficking

Kidnapping

Attachment 2

Money Laundering (Prevention)

BELIZE:

BILL

for

AN ACT to amend the Money Laundering (Prevention) Act, Chapter 104 of the Substantive Laws of Belize, Revised Edition 2000, to make improved provisions to combat terrorism; to provide for the freezing of funds and other financial assets of terrorists; to facilitate international cooperation in the investigation and prosecution of money laundering offences; and to provide for matters connected therewith or incidental thereto.

(*Gazetted* 8th December, 2001)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

Short title

1. This Act may be cited as the

MONEY LAUNDERING (PREVENTION) (AMENDMENT) ACT, 2001

CAP. 104

and shall be read and construed as one with the Money Laundering (Prevention) Act, which is hereinafter referred to as the principal Act.

Amendment of section 2

2 Section 2 of the principal Act is hereby amended by inserting the following definition in its proper alphabetical order:

"terrorism" means the use or threat of action where –

(a) (i) the action falls within sub-paragraph (b),

(ii) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and

(iii) the use or threat is made for the purpose of advancing a political, religious or ideological cause;

(b) action falls within this sub-paragraph if it –

(i) involves serious violence against a person,

(ii) involves serious damage to property,

(iii) endangers a person's life, other than that of the person committing the action,

(iv) creates a serious risk to the health or safety of the public or a section of the public, or

(v) is designed seriously to interfere with or seriously to disrupt an electronic system;

(c) the use or threat of action falling within sub-paragraph (b) which involves the use of firearms or explosives is terrorism whether or not sub-paragraph (a) (ii) is satisfied;

(d) in sub-paragraphs (a), (b) and (c) –

(i) "action" includes action outside Belize,

(ii) a reference to any person or to property is a reference to any person, or to property, wherever situated,

(iii) a reference to the public includes a reference to the public of a country other than that of Belize,

(iv) "the government" means the government of Belize or of a country other than Belize.

Amendment of section 11

3. Section 11 of the principal Act is hereby amended as follows:

(i) by renumbering that section as subsection (1);

(ii) in subsection (1) as so renumbered, by repealing paragraph (f) and replacing it by the following:

"(f) may instruct any financial institution to take such action as may be appropriate, including the freezing of funds and other financial assets or economic resources of any person or entity, to facilitate any investigation, prosecution or proceeding for a money laundering offence, whether in Belize or elsewhere;"

(iii) by adding the following as new subsection (2) immediately after subsection (1):

"(2) Every Order made by the Supervisory Authority pursuant to paragraph (f) of subsection (1) above for the freezing of funds or financial assets of any person shall cease to have effect after three clear days from the making of the Order, unless within such period the Supervisory Authority makes an application to a Judge of Supreme Court in Chambers for an order for the freezing of such property, and the application shall be heard by the Court as soon as practicable.

Addition of section 11A

4. The principal Act is hereby amended by the addition of the following as new section 11A immediately after section 11:

"Freezing of funds connected with terrorism

11A. (1) Where the Supervisory Authority has reasonable grounds for believing that the person by, for or on behalf of whom any funds are held is or may be –

(a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,

(b) a person controlled or owned directly or indirectly by a person in (a), or

(c) a person acting on behalf, or at the direction, of a person in (a),

the Supervisory Authority may by notice direct that those funds shall be frozen and shall not be made available to any person.

(2) A direction given under subsection (1) above shall specify either-

(a) the period for which the direction is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under subsection (3) below.

(3) The Supervisory Authority may by notice revoke a direction given under subsection (1) at any time.

(4) A notice under subsections (1) or (3) shall be given in writing to the person holding the funds in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or for or on whose behalf they are held ("the owner").

(5) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(6) Where a direction has been given under subsection (1) above any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside; and on such application the Court may set aside the direction.

(7) A person who makes an application under subsection (6) above shall give a copy of the application and any witness statement or affidavit in support to the Supervisory Authority (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(8) Any person who contravenes or fails to comply with the requirements of this section shall be guilty of a money laundering offence and shall be liable to the penalties prescribed in section 6 of this Act."

Amendment of section 23

5. Section 23 of the principal Act is hereby amended as follows:

(a) by substituting the words "The Court, Supervisory Authority or other competent authority" for the words "The Court or other competent authority" wherever occurring therein;

(b) by repealing subsection (5) and replacing the same by the following:

"(5) Any provisions relating to bank secrecy or confidentiality shall not be an impediment to compliance with this section, when the information is requested by or shared with the court or other competent authority whether in Belize or elsewhere, and any disclosure made in pursuance thereto shall not be regarded as a breach of confidentiality imposed by law or contract;"

(c) by repealing subsection (6) thereof and substituting therefor the following:

"The Supervisory Authority may take such action as may be appropriate including the freezing of funds and other financial assets or economic resources of any person to comply with or give effect to a resolution of the Security Council of the United Nations adopted under Chapter VII of the United Nations Charter:

Provided that if the Security Council takes any subsequent decision which has the effect of postponing, suspending or cancelling the operation of such resolution, in whole or in part, any order made by the Supervisory Authority under this subsection shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision."

Addition of new section 26A

6. The principal Act is hereby amended by the insertion of the following as new section 26A immediately after section 26:

"General penalty for non-compliance

26A. Every financial institution or other person who fails to comply with any direction or instruction given by the Supervisory Authority under this Act shall be guilty of an offence and shall, unless a penalty is specifically provided elsewhere, be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding three years, or to both."

Amendment of section 27

7. Section 27 of the principal Act is hereby amended by repealing subsection (1) thereof and replacing the same by the following:

"(1) No prosecution in respect of any offence committed under this Act or any regulations made thereunder shall be instituted except by, or with the consent in writing of the Director of Public Prosecutions or the Supervisory Authority:

Provided that this subsection shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained."

Amendment of First Schedule

8. The First Schedule to the principal Act is hereby amended by the addition of the following at the end thereof:

"17. International financial services

18. Accounting services

19. Legal services".

United Nations S/2001/1266

Security Council

Distr.: General
27 December 2001
English
Original: French

Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Belgium, submitted pursuant to paragraph 6 of resolution 1373 (2001).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71981 (E) 160102 210102

Annex

Note verbale dated 21 December 2001 from the Permanent Mission of Belgium to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Belgium to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to refer to his note SCA/20/01(6).

The Permanent Mission of Belgium has the honour to transmit herewith, pursuant to paragraph 6 of resolution 1373 (2001), the national report on the measures taken by Belgium to give effect to the resolution (see annex).

Enclosure

Report of Belgium on the implementation of Security Council resolution 1373 (2001)

The following are the questions and Belgium's responses concerning the resolution.

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

One aspect of the prevention of the financing of terrorism is covered by the anti-money-laundering law of 11 January 1993, article 3, paragraph 2, of which reads as follows:

> "§ 2. For the purposes of the present law, the origin of capital or assets is illicit whenever the latter are derived from:
>
> (1) An offence connected with terrorism; ..."

As a result, the Belgian Financial Intelligence Processing Unit, which is charged, inter alia, with enforcing this law, is in possession of an instrument for obtaining knowledge regarding suspected money-laundering operations connected with terrorism.

Annex 1 describes a number of actions taken by the European Union (to which Belgium belongs) that also help prevent the financing of terrorism.

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

At present, until the entry into force of the framework decision on combating terrorism (which is expected to enter into force by the end of 2002 and contains a list of terrorist acts including the collection and supplying of funds for such acts), Belgian legislation does not actually speak of any "terrorist offence".

Anti-terrorist activities are based on:

(a) The Belgian Penal Code, which provides penalties for acts constituting offences which take place upstream of a terrorist act (such as criminal conspiracy, threats of attacks, etc.), as well as the offences whereby the terrorist act is carried out (such as the taking of hostages, kidnapping, murder, etc.). In addition, any offence perpetrated by terrorist elements with a view to facilitating their action is also punishable by the Belgian authorities (such as the use of false documents, collection of funds, etc.);

(b) Various specific laws, in particular, the law of 11 January 1993 on preventing the use of the financial system for money-laundering and the law of 10 January 1999 on organized crime;

(c) The implementation of various international conventions, most of which are United Nations sectoral conventions on terrorism.

It is clear from the foregoing that Belgium does not yet have any legal instrument to criminalize the acts described in paragraph 1 (b). Those same acts, however, can be prosecuted when they fall within the fields of the legislative system which are described in points (a), (b), etc.

(c) *Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;*

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The law of 11 May 1995 on the implementation of decisions of the United Nations Security Council permits the issuance of a royal order discussed in the Council of Ministers. For example, the royal decree of 17 February 2000 on restrictive measures against the Taliban of Afghanistan pronounces the freezing of funds and other financial resources derived notably from property belonging to or directly or indirectly controlled by the Taliban or any enterprise connected with the Taliban and identified by the Security Council Committee established pursuant to resolution 1267 (1999). Under the same decree, the Minister of Finance has the power to organize and take any measure aimed at the related implementation, in particular, the publication of lists of the persons and entities concerned, in accordance with the relevant United Nations resolutions.

Under the decree-law of 6 October 1944 on foreign-exchange control, it is possible to take measures to freeze funds in connection with European Union regulations and even unilateral measures of Belgium with respect to a third country. For example, the European regulations relating to the freezing of the assets of Milosevic and the members of his family were applied by means of the royal decree of 5 March 2001 on financial relations with the Federal Republic of Yugoslavia, based on the said decree-law.

(d) *Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;*

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

Such activities are punishable by reference to the existing legislation as described under paragraph 1 (b): criminal conspiracy or money-laundering, for example. The entry into force of the framework decision on combating terrorism (end of 2002) will obviously make prohibition and suppression easier.

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

Subparagraph (a) — What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Here mention should be made once again of the framework decision on combating terrorism, which should take effect at the end of 2002, and will make it possible to criminalize the acts described in paragraph 2 (a). Until that time, insofar as a terrorist organization comes under the definition of a "criminal organization", as described in article 324 bis of the Penal Code, belonging to such an organization is punishable by a penalty of one to three years' imprisonment and a fine of from 100 to 5,000 Belgian francs (to be adapted).

Concerning the recruitment of members of terrorist groups, no specific legislation exists (apart from the framework decision already mentioned). Nevertheless, mention should be made of a case currently in the investigation stage in which a pro-Taliban preacher encouraging youths to join training camps in Afghanistan has been arrested and indicted, partly on the basis of article 1 of the law of 1 August 1979 on serving in a foreign army or troop situated in the territory of a foreign State.

With regard to the supply of weapons to terrorists, the following legislative measures should be mentioned: the royal decree of 9 February 1999 on the creation of an interdepartmental committee on combating illegal arms transfers; the law of 11 September 1962 on the import, export and transit of dual-use goods and technologies; the law of 5 August 1991 on the import, export and transit of weapons, ammunition and materiel specially intended for military purposes and the related technology. In addition, customs penalties are applicable at the time of import, export or transit if prohibition, restriction or control measures have not been observed or if the customs procedures have not been respected (article 231 of the general law on customs and excise — *Moniteur belge*, 21 September 1977).

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

Subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

Within the European Union, the police and intelligence services of the member States have several systems and bilateral or community-wide alert procedures. Those systems and procedures were re-examined after the attacks of 11 September,

in particular through the creation of an anti-terrorist unit within the European Police Office (Europol).

In addition, close judicial and police cooperation has existed with the United States since the events of 11 September.

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

Subparagraph (c) — What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

Under the Convention relating to the Status of Refugees, persons implicated in acts of terrorism may be barred from the right of asylum. In the majority of such cases, the terrorists or presumed terrorists are denied refuge and returned to their country of origin, except where the person in question runs a serious and genuine personal risk in that country (the death penalty, for example).

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

Subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Pending the implementation of the framework decision on combating terrorism, there is no specific legislation for preventing terrorists from using Belgium as a base for committing terrorist acts against other States.

It should be pointed out, however, that this does not prevent inquiries from being conducted on the preparation of attacks to be carried out abroad, some of which have led to recent arrests (the case of Trabelsi et al.). Such procedures are based on the body of legal provisions described under paragraph 1 (b).

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

Subparagraph (e) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Belgium has not yet adopted any special measures, but has negotiated the framework decision on combating terrorism, which was approved by the Justice and Home Affairs Council on 6 December 2001 and is to be made enforceable under Belgian law by the end of 2002. Moreover, the same Council obtained political agreement on the establishment of a judicial cooperation unit, Eurojust.

In the trial of the members of the Armed Islamic Group (GIA), the persons found guilty were given heavy sentences.

(f) *Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;*

Subparagraph (f) — What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

Customary practice in the area of legal cooperation in criminal matters applies also in the case of terrorism. Furthermore, all the sectoral conventions against terrorism and the European Convention on the Suppression of Terrorism, which have been ratified by Belgium, permit judicial cooperation between States parties to those conventions.

Measures exist for the exchange of information in the fiscal area (see under paragraph 3 (b)) and under the following instruments:

The Convention of 15 December 1950 establishing the Customs Cooperation Council (approved by the law of 10 December 1952, *Moniteur belge*, 31 December 1952), currently known as the World Customs Organization (WCO);

The Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations (*Official Journal* No. C024 of 23 January 1998, pp. 0002-0022), currently being ratified in Belgium: convention between Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands on mutual assistance between the respective customs administrations and protocols, signed at Rome on 7 September 1967 (*Moniteur belge*, 16 April 1970);

The Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol) (Europol Convention), Annex and Declarations, signed at Brussels on 26 July 1995;

The Convention applying the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the gradual abolition of checks at their common borders;

Bilateral conventions:

Article 325 of the general law on customs and excise, mentioned above.

Belgian customs can lend assistance in connection with violations of the laws and regulations applicable to entry into and exit from Belgian territory; such violations may be based on events connected with terrorist acts or supporting such acts.

(g) *Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;*

Subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Within the countries of the Schengen zone there exists a personal identity system, the Schengen Information System (SIS), whereby it is possible to detect the movements of persons known within the anti-terrorism context at the zone's outer borders.

In March 2001 Belgium introduced a new type of passport offering a high degree of protection against forgery.

A European Union regulation of 25 May 1995 imposed a uniform visa for the countries belonging to this system. The regulation provides procedures and specifications designed to prevent the creation and use of false or falsified visas.

Written forgeries and the use of false documents are punishable under articles 194 et seq. of the Penal Code.

3. *Calls upon* all States to:

(a) *Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;*

Subparagraph (a) — What measures if any have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Within the European Union, operational cooperation in fighting terrorism between the police and intelligence services of member States is entirely satisfactory, especially after the Council adopted, on 20 September 2001, a number of measures to intensify the exchange of information among member States. Among these, mention can be made of the regular meetings of the heads of antiterrorism units and of their intelligence services, and the strengthening of the role of Europol in fighting terrorism.

Exchanges take place regularly with eligible third countries within the European Union, and for other countries with which Belgium has signed bilateral police cooperation agreements, terrorism is a subject of cooperation and discussion. These bilateral agreements must still be approved by the Belgian Parliament before they can enter into force. Otherwise, exchanges of information take place on a case-by-case basis.

With regard to exchanges of information about exchanges of goods, including all types of weapons, information concerning dual-use goods will now be exchanged within the Interdepartmental Committee to Control Illegal Arms Transfers, which can only improve the monitoring of exports and transit.

With regard to explosives, data concerning imports of fireworks (Code NC 36.04.1000) are periodically transmitted to the federal police and are discussed within the task force comprising representatives of the customs, justice and federal police departments and the Ministry of Economic Affairs. Cooperation also exists with the Netherlands.

The forthcoming ratification by Belgium of the Convention on the use of information technology for customs purposes (*Official Journal* No. C316 of 27

November 1995, p. 0033) will make it possible to implement the customs information system (CIS) database (third pillar), conceived as a bulletin board of cases with an early warning system and recommended actions, particularly with regard to goods subject to measures of prohibition, restriction or control, including weapons and hazardous substances.

In addition, the initiative of the German, Belgian and French delegations to the customs cooperation working group of the Council of the European Union, regarding the establishment of an archive of customs investigation files, could help to promote the exchange of useful information on terrorism.

The purpose of this initiative is to establish a computerized archive in order to make available to each member State's competent customs investigation services the reference numbers of customs investigation files currently open or closed upon a finding by the competent services of other member States that a breach has occurred. This is a tool which, if adopted, can also contribute indirectly to controlling acts in support of terrorism.

Furthermore, a cooperation agreement between the police and customs departments was concluded with a view to the implementation in Belgium of the Europol Convention in all its aspects, and a cooperation agreement between the maritime police and customs departments, including anti-terrorism among its objectives, will be signed shortly.

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

Subparagraph (c) — What steps have been taken to cooperate in the areas indicated in this subparagraph?

No new steps have been taken, either with specific regard to taxes or with regard to exchanges of information and existing administrative cooperation in tax matters.

Nevertheless, with regard to exchanges of information in tax matters, note should be taken of several existing instruments:

- Bilateral conventions for the avoidance of double taxation. Most conventions follow the provisions of the Organisation for Economic Cooperation and Development (OECD) model convention.

These conventions were concluded by Belgium in order to avoid double taxation on income and prevent tax evasion. Nevertheless, they contain numerous restrictions. Indeed, a large number of conventions restrict such exchanges to residents of Belgium and to States with which such a treaty has been signed. Information, which is limited to the taxes enumerated in the conventions, may be transmitted only to the individuals and authorities responsible for levying and collecting taxes, and are aimed only at ensuring the correct implementation of those conventions and of the domestic tax laws of the States concerned. Nevertheless, several conventions permit the transmittal of information to the authorities empowered to penalize breaches of the tax laws.

- The directives issued in the field of direct taxation and value-added tax by the Council of the European Communities, namely, Council Directive 77/799/EEC

of 19 December 1977 concerning mutual assistance by the competent authorities in the field of direct and indirect taxation, as amended by Council Directive 79/1070/EEC of 6 December 1979 in the field of value-added tax, authorize exchanges of information;

- The Joint OECD/Council of Europe Convention on Mutual Assistance in Tax Matters.

This Convention is the fruit of joint efforts by the Council of Europe and OECD. The Convention is aimed at developing international cooperation with a view to ensuring a stricter enforcement of national tax laws. It is a new legal instrument making it possible to implement various forms of international administrative assistance: exchanges of information, simultaneous fiscal controls, fiscal controls abroad, assistance in recovery efforts and notification of documents. It was opened for signature by the States members of the Council of Europe and OECD on 25 January 1988 and was signed by Belgium on 7 February 1992.

In the first five countries to ratify, accede to or adopt the Convention, namely, Denmark, the United States, Finland, Norway and Sweden, the Convention entered into force on 1 April 1995. These countries were joined in 1996 by Iceland and in 1997 by the Netherlands and Poland. In Belgium the Convention entered into force on 1 December 2000.

This Convention has the merit of covering nearly all taxes, that is, all forms of compulsory levies by States or their subordinate authorities, whether direct or indirect, with the exception of customs duties, import duties and other, similar duties.

In this context, exchanges of information take place mainly on demand or spontaneously.

Moreover, with the agreement of the respective competent authorities, some States authorize the presence of officials of another State in their territory.

In the context of searching for and suppressing serious and organized tax fraud and the dismantling of fraudulent mechanisms and schemes, there is no doubt that, where terrorism is financed through such specific mechanisms, the tax administrations, in cooperation with the judicial authorities, *are indirectly involved in the administrative investigations and inquiries designed to combat terrorism. Such involvement, however, occurs not through specific instruments or means, but through the normal use of exchanges of information and procedures developed to control tax fraud.*

- It should be noted that, where there are serious indications of money-laundering, the Financial Intelligence Processing Unit (CTIF) must report the facts to the district attorney's office. In such instances, where a case showing signs of tax fraud is referred by CTIF to the district attorney's office, a report is transmitted by the Office of the Public Prosecutor to the Ministry of Finance pursuant to article 2 of the Act of 28 April 1999 (*Moniteur belge*, 25 June 1999). It goes without saying that such indications are put to use by the research services of the tax administrations and, in particular, by the Special Tax Inspectorate, which undertakes large-scale monitoring efforts to detect, prevent and suppress waves of fraud.

– Article 29, paragraph 2, of the Code of Criminal Procedure provides that tax officials must bring to the attention of the Office of the Public Prosecutor the punishable tax offences which they discover.

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

Subparagraph (c) — What steps have been taken to cooperate in the areas indicated in this subparagraph?

Most of the Belgian and/or European measures were mentioned in paragraph 3 (b), but it should be noted that the European Union has begun to assess the attitudes of third countries towards terrorism; in the long run, this will have an impact on the Union's assistance programmes.

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Annex 2 sets out the status of Belgium's signatures and ratifications of the conventions: six conventions are signed and ratified; five are signed, but have yet to be ratified. There are no major obstacles to incorporating them into Belgian law. The International Convention for the Suppression of the Financing of Terrorism will be ratified as a matter of priority.

Belgium plans to accede to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 14 December 1973); thereafter, all the United Nations conventions will be operative in Belgium.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The information provided in paragraph 3 (d) explains the implementation of the conventions and protocols. The implementation of the aforesaid resolutions should be read together with the answers provided in paragraphs 1 (b) and (c), 3 (d) and 2 (c).

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts;

Subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

To ensure that an asylum seeker is not a terrorist, the individual is interviewed and his statements are verified as far as possible. The various police and security services are consulted as needed. If it turns out that the asylum seeker has committed terrorist acts abroad, his application may be rejected.

Moreover, if an individual has been granted asylum, but it is later learned that he has been implicated in terrorism, his status may be revoked and, to the extent that the acts committed are under the jurisdiction of the Belgian courts, he will be prosecuted and possibly sentenced.

(g) *Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;*

Subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Refugees in Belgian territory are subject to Belgian law and are therefore punishable in the event of terrorist crimes falling under Belgian jurisdiction.

Annexes

Annexe I

Les Conseils européens ont pris ou examiné certaines mesures visant à lutter contre le financement du terrorisme :

a) Un conseil conjoint ECOFIN/JAI a réuni les États membres de l'Union européenne 16 octobre 2001. Celui ci s'est penché sur les progrès réalisés et les mesures à prendre dans le cadre de la lutte contre le terrorisme, le blanchiment de capitaux et la criminalité financière et abouti aux conclusions suivantes :

1. Les États membres ont signé le 16 octobre 2001 le projet de protocole à la Convention du 29 mai 2000 relative à l'entraide judiciaire en matière pénale entre les États membres de l'Union européenne. Ce protocole représente une amélioration importante de la coopération au sein des États membres dans le domaine de la lutte contre la criminalité économique et financière. Les États membres se sont engagés à ratifier ce protocole dès que possible, et au plus tard d'ici à la fin de l'année prochaine.

2. Le Conseil a décidé le 16 octobre d'adopter formellement dès que possible, en codécision avec le Parlement européen, la directive visant à modifier la directive du 10 juin 1991 relative à la prévention de l'utilisation du système financier aux fins du blanchiment de capitaux. Cette nouvelle directive, qui élargit l'interdiction du blanchiment pour couvrir non seulement le trafic de drogue mais aussi d'autres formes graves de criminalité et qui étend les obligations prévues par la directive à certaines activités et professions non financières, y compris les avocats et les experts-comptables, revêt une importance majeure pour la lutte contre la criminalité organisée.

3. Le Conseil a réaffirmé le 16 octobre sa ferme intention d'adopter, aussitôt que possible après avoir reçu et examiné l'avis du Parlement européen, le projet de décision-cadre relative à l'exécution dans l'Union européenne des décisions de gel des avoirs ou des preuves, dont le champ d'application doit être étendu aux infractions liées au terrorisme.

4. Le Conseil a réaffirmé son intention d'accorder une attention particulière au terrorisme dans le cadre du projet de directive sur les opérations d'initiés et les manipulations de marché (abus de marché), lorsqu'il examinera la proposition qu'a présentée récemment la Commission et sur laquelle un accord politique devrait être recherché le plus rapidement possible.

5. Les États membres, réunis au sein du Conseil, ont noté que tous les États membres auront signé d'ici à la fin d'octobre, la Convention des Nations Unies pour la répression du financement du terrorisme. Ils ont aussi décidé de la ratifier dans les meilleurs délais, de même que toutes les autres conventions destinées à prévenir et à combattre le financement du terrorisme, et de prendre les mesures d'exécution nécessaires.

6. Le Conseil se félicite que la Commission ait actualisé la liste annexée au règlement (CE) No 467/2001 du Conseil, du 6 mars 2001, interdisant l'exportation de certaines marchandises et de certains services vers l'Afghanistan, renforçant l'interdiction des vols et étendant le gel des fonds et autres ressources financières décidés à l'encontre des Taliban d'Afghanistan, afin de geler les avoirs des

personnes désignées par le Comité des sanctions institué dans le cadre de la résolution 1267 du Conseil de sécurité des Nations Unies.

7. À la suite des conclusions de la session conjointe du Conseil ECOFIN/JAI du 17 octobre 2000, le Conseil a confirmé que, conformément aux recommandations du Groupe d'action financière sur le blanchiment des capitaux (GAFI), les institutions financières des États membres porteront une attention particulière à leurs relations d'affaires et à leurs transactions avec les personnes physiques et morales, y compris les sociétés et les institutions financières, de pays ou territoires non coopératifs (PTNC). La liste des PTNC a été mise à jour le 7 septembre 2001 et se présente maintenant comme suit : Îles Cook, Dominique, Égypte, Grenade, Guatemala, Hongrie, Indonésie, Israël, Liban, Îles Marshall, Myanmar, Nauru, Nigéria, Nioué, Philippines, Russie, Saint-Kitts-et-Nevis, Saint-Vincent-et-les Grenadines, et l'Ukraine.

8. Le Conseil a noté le 16 octobre que le GAFI a constaté le 22 juin 2001 et a répété le 7 septembre 2001 que les Philippines n'avaient pas adopté de textes législatifs de portée significative contre le blanchiment de capitaux et il a lancé un appel à ses membres pour qu'ils appliquent des contre-mesures à ce pays. Selon certaines informations, les Philippines ont adopté, le 29 septembre 2001, une législation relative à la lutte contre le blanchiment. En conséquence, le GAFI a demandé à tous ses membres de suspendre l'application des contre-mesures aux Philippines, jusqu'à ce qu'il ait été vérifié que cette législation a effectivement été adoptée. Le GAFI a également constaté que Nauru a adopté une loi de lutte contre le blanchiment de capitaux le 28 août 2001. Toutefois, cette nouvelle législation semble présenter plusieurs lacunes et ne traite pas de manière appropriée du principal problème de blanchiment de capitaux à Nauru. Le GAFI a donc décidé que ses membres devaient appliquer des contre-mesures à Nauru, à moins que des amendements appropriés à cette loi ne soient adoptés avant le 30 novembre 2001.

Lors de la session conjointe du Conseil ECOFIN/JAI du 17 octobre 2000, les États membres se sont engagés à mettre en oeuvre de concert, concomitamment et sans délai les contre-mesures qui auront été décidées par le GAFI et à adapter, le cas échéant, leur législation. Les mesures recommandées par le GAFI sont les suivantes :

a) Imposer des prescriptions rigoureuses pour l'identification des clients et renforcer les conseils, notamment les conseils financiers spécifiques à chacun des pays ou territoires concernés, à l'intention des institutions financières pour l'identification des propriétaires réels avant d'établir des relations commerciales avec des particuliers ou des sociétés de ces pays ou territoires;

b) Renforcer les mécanismes de déclaration appropriés ou procéder à la déclaration systématique des opérations financières avec ces pays ou territoires en considérant que des opérations financières avec de tels pays sont plus susceptibles d'être suspectes;

c) Tenir compte, lors de l'examen des demandes d'autorisation en vue de l'établissement dans des pays membres du GAFI, de filiales, de succursales ou de bureaux de représentation de banques, du fait que la banque concernée est établie dans un PTNC;

d) Mettre en garde les entreprises du secteur non financier contre les risques de blanchiment de capitaux liés aux opérations avec des entités établies dans les PTNC.

Les États membres, réunis au sein du Conseil, ont décidé d'appliquer, de concert et concomitamment, les contre-mesures précitées aux Philippines et à Nauru, si nécessaire, avec effet immédiat. Si l'adoption de textes législatifs s'avère nécessaire pour permettre la mise en oeuvre des contre-mesures, les États membres, réunis au sein du Conseil, s'engagent à veiller à ce que leur législation leur permette d'appliquer les contre-mesures à compter du 1er janvier 2002.

9. Le Conseil a réaffirmé l'importance de la révision des 40 recommandations du GAFI et de l'élargissement du mandat de ce dernier pour y inclure les cas liés au terrorisme. Le Conseil invite la présidence à organiser des réunions de coordination systématiques afin de permettre de dégager une position commune entre les États membres, en tenant compte des instruments juridiques qu'il a adoptés.

10. Le Conseil a souligné qu'il est urgent de prendre des mesures énergiques contre le financement du terrorisme, conformément à la résolution 1373/01 du Conseil de sécurité. Le Conseil a décidé d'utiliser le mécanisme de contre-mesures coordonnées du GAFI à l'encontre des PTNC également à l'égard des pays qui abritent, soutiennent ou offrent un refuge aux terroristes et à leurs modes de financement. Le Conseil a invité la Commission à examiner rapidement des propositions visant à faire en sorte que les États membres prennent des mesures efficaces à l'encontre de ces pays, de concert et concomitamment.

11. Le Conseil a souligné fermement qu'il importe que tous les États membres, les pays candidats et les territoires dépendants et associés des États membres mettent pleinement en oeuvre l'acquis de l'Union en matière de lutte contre le terrorisme, le blanchiment des capitaux et la criminalité financière ainsi que les 40 recommandations du GAFI sur le blanchiment et prennent les mesures appropriées pour être à même de mettre en oeuvre les contre-mesures recommandées par le GAFI. En particulier, le Conseil se réjouit de l'engagement pris par le Gouvernement hongrois d'améliorer les normes antiblanchiment et invite le Parlement hongrois à adopter rapidement les mesures requises pour satisfaire à toutes les recommandations du GAFI. Le Conseil se félicite de l'intention de la Commission de renforcer l'examen des activités des pays candidats en matière de lutte contre le blanchiment, dans le cadre de l'évaluation par les pairs qui est actuellement en cours.

12. Le Conseil s'est félicité des travaux déjà réalisés concernant un accord-type en matière d'entraide judiciaire avec les PTNC et charge le groupe compétent d'accélérer ces travaux. Après l'élaboration de l'accord-type, le Conseil a l'intention d'autoriser rapidement la présidence, au cas par cas et avec l'assistance de la Commission le cas échéant, à ouvrir des négociations avec les PTNC, notamment sur la base des articles 24 et 38 du Traité sur l'Union européenne et conformément à la procédure qu'ils prévoient.

13. Il a été indiqué que l'amélioration des systèmes internes de surveillance et de recherche des banques revêt la plus haute importance si l'on veut améliorer l'identification des transferts de fonds utilisés pour financer des actes terroristes. Les recommandations concernant l'obligation de diligence à l'égard de la clientèle des banques élaborées par le Comité de Bâle sur la surveillance bancaire et entrées

en vigueur en octobre 2001, fournissent des directives en matière d'identification du client et de suivi constant des comptes, qui peuvent également être utilisées à cette fin. En conséquence, cette recommandation, jointe aux recommandations du GAFI, devrait devenir la norme dans tous les établissements de crédit de l'Union européenne.

14. Le Conseil a réaffirmé l'importance d'une coopération étroite entre les cellules de renseignement financier (CRF) des États membres pour l'échange d'informations sur les transactions suspectes, notamment celles qui sont liées au terrorisme. L'adoption, lors de la session conjointe du Conseil ECOFIN/JAI du 17 octobre 2000, de la décision relative à l'échange d'informations entre les CRF, a constitué une étape importante dans l'instauration d'une coopération mutuelle entre les CRF des États membres. Dès lors, les États membres doivent veiller à ce que cette décision soit mise en oeuvre de façon uniforme et, en particulier, prévoir des circuits appropriés et protégés pour la communication entre les CRF. Le Conseil confirme la nécessité d'améliorer la communication entre les CRF et invite les États membres à renforcer le système existant et à examiner l'opportunité d'élaborer un système pour échanger les informations pertinentes par des moyens automatiques; il demande à la Commission d'étudier les possibilités de financement communautaire pour un tel système automatique.

15. Le Conseil a pris note du rapport de la Commission qui étudie plus particulièrement la possibilité d'établir des critères minimaux de transparence des divers types d'entités juridiques (notamment les fiducies, trusts et fondations), afin de se donner les moyens de mieux identifier les ayants droit économiques. Le Conseil invite la Commission à accélérer ses travaux dans ce domaine afin de permettre aux deux institutions de définir avant la fin de l'année des priorités et des mesures à prendre, en tenant compte du réexamen du droit des sociétés de l'UE auquel procède actuellement la Commission.

16. Les États membres de l'UE ont engagé le FMI à intensifier, en contact étroit avec le Forum pour la stabilité financière, son action visant à évaluer si les mesures de contrôle prises dans les centres financiers extraterritoriaux sont suffisantes et à fournir l'assistance technique nécessaire pour affermir leur éthique professionnelle. En outre, ils demandent au FMI et à la Banque mondiale de prendre de nouvelles mesures afin de prendre en compte, dans les avis qu'ils donnent sur la politique à suivre et les programmes qu'ils établissent, les normes antiblanchiment.

17. Le Conseil a pris acte du rapport préliminaire de la Commission sur les travaux entrepris en ce qui concerne la surveillance des mouvements transfrontaliers d'espèces et il invite la Commission à présenter son rapport définitif avant le 31 décembre 2001.

18. Le Conseil a pris acte des rapports de la Commission et de la présidence ainsi que des interventions des États membres concernant les mesures de lutte contre le financement du terrorisme. Il invite instamment la Commission et les États membres à coopérer étroitement dans ce domaine en vue d'élaborer un rapport global à intervalles réguliers.

19. Le Conseil a invité la Commission à analyser les contre-mesures prises par les États membres dans le cadre de la lutte contre le blanchiment de capitaux via Internet et les nouveaux systèmes de paiement électronique, en tenant compte des travaux déjà réalisés par le GAFI. Le Conseil a invité la Commission à présenter un

rapport sur l'analyse qu'elle aura réalisée. Les États membres ont été invités à fournir les informations pertinentes à la Commission en temps utile.

b) Lors de la réunion annuelle des ministres de l économie et des finances de l'UE et des pays de l'AELE qui a eu lieu de 6 novembre 2001, les ministres de l'économie et des finances de l'UE et des pays de l'AELE ont également examiné les mesures qui pourraient permettre d'empêcher l'utilisation du système financier aux fins du financement d'activités terroristes.

Les ministres ont réitéré leur détermination à mener une lutte active et résolue contre le financement du terrorisme, le blanchiment de l'argent et la criminalité financière et ont notamment :

- Apporté leur soutien au plan d'action décidé par le Conseil européen pour lutter contre le financement du terrorisme;
- Pris acte de ce que les pays de l'UE et de l'AELE ont signé la Convention internationale des Nations Unies pour la répression du financement du terrorisme et vont la ratifier sans tarder;
- Approuvé la révision de la directive sur le blanchiment de l'argent dans l'UE, qui concerne également l'EEE;
- Décidé de prendre les mesures nécessaires en matière de gel des avoirs conformément à la résolution 1267 du Conseil de sécurité des Nations Unies;
- Décidé de prendre les mesures nécessaires pour prévenir et combattre le financement du terrorisme en mettant pleinement en oeuvre la résolution 1373 du Conseil de sécurité des Nations Unies;
- Exprimé leurs encouragements pour ses travaux au Groupe d'action financière sur le blanchiment des capitaux (GAFI), dont le mandat est étendu aux dossiers liés au terrorisme;
- Décidé d'intensifier dans le cadre juridique les échanges d'informations portant sur des transactions suspectes liées au terrorisme, au blanchiment de l'argent et à la criminalité financieres

c) Les administrations fiscales belges impliquées dans la recherche des infractions fiscales et des fraudes internationales (Inspection spéciale des impôts et douanes et accises) ont été sensibilisées à l'aspect du financement du terrorisme qui peut être lié à ces infractions, de manière à assurer une vigilance accrue dans ce domaine.

Concrètement les mesures opérationnelles qui peuvent être prises par les douanes notamment pour les douanes et accises et l' Inspection spéciale des impôts, sont de deux ordres :

– Le ciblage des contrôles peut être réorienté sur les modes de financement du terrorisme (financement par divers trafics illicites, tels que drogues, armes, diamants et éventuellement les voitures, carrousels, huiles minérales, cigarettes, etc.) ou le détournement à l'import, export, transit ou en aval (par exemple, vol) de moyens matériels servant à commettre des actes de terrorisme (par exemple, voitures, armes, etc.).

– L'attention des instances nationales de coordination peut être attirée sur les opérations conjointes au niveau européen qui peuvent apporter des éléments d'information pour la lutte contre le terrorisme.

Sur le plan législatif, certains projets ont des implications notamment en matière fiscale et plus particulièrement de douane (par exemple, le mandat d'arrêt européen, la décision-cadre relative à la lutte contre le terrorisme, la Directive blanchiment) (voir à ce sujet la « Feuille de route » reprenant l'ensemble des mesures et initiatives à mettre en oeuvre dans le cadre du plan d'action décidé par le Conseil européen le 21 septembre 2001).

Il est à noter que, à l'occasion de la vingtième réunion du Groupe de politique douanière, suppléants (GPDS), tenue le 25 octobre 2001, le rôle de la douane dans la lutte contre le terrorisme a été abordé. Voici la teneur de la discussion :

> « Tous les États membres ont exposé les mesures adoptées suite aux attaques terroristes aux États-Unis. Plusieurs États membres ont insisté sur le financement du terrorisme, notamment par le trafic de drogue. Certains États membres ont mis l'accent sur la dimension communautaire de la lutte contre le terrorisme. »

Le Groupe a unanimement reconnu le rôle que la douane doit jouer dans la lutte contre le terrorisme. De par leur nature, les contrôles exercés traditionnellement par la douane concourent à la sécurité. Le Groupe a reconnu l'importance de l'analyse de risques pour orienter les contrôles (par exemple, substances dangereuses). Le Groupe a également convenu que certains outils prévus par Douane 2000 pourraient être mis à profit pour développer certaines actions. Le Groupe a également évoqué le recours aux scanners. En ce qui concerne les armes biologiques, le Groupe a été d'avis de suivre l'évolution de la situation pour examiner dans quelle mesure une intervention musclée serait nécessaire. L'échange d'informations avec Europol a également été évoqué. Les services OLAF/JAI/TAXUD feront parvenir une note pour avoir un aperçu du rôle de la douane dans la lutte contre le terrorisme et cibler les actions. Cette question devait être traitée lors de la réunion du GDP – Titulaires le 28 novembre 2001. Toutefois , le rapport de cette réunion n'est pas encore disponible au moment de la rédaction des réponses à ce questionnaire.

Enfin, il est à noter qu' à la demande du COPS (PESD), le Groupe européen chargé de la non-prolifération et le Groupe européen de désarmement ont discuté de la manière de contribuer à la lutte contre le terrorisme international. Notamment sur le plan des mécanismes de contrôle des exportations, un renforcement des contrôles par une harmonisation plus poussée des directives en la matière a été examiné.

Sur le plan national belge, un système de licences pour les armes et les biens à double usage est en place.

Annexe II

Conventions des Nations Unies contre le terrorisme : situation de la Belgique

Conventions et protocole signés et ratifiés

1. Convention internationale contre la prise d'otages – New York, 17 décembre 1979
2. Convention relative aux infractions et à certains autres actes survenant à bord des aéronefs – Tokyo, 14 septembre 1963
3. Convention pour la répression de la capture illicite d'aéronefs – La Haye, 16 décembre 1970
4. Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile – Montréal, 23 septembre 1971
5. Protocole pour la répression des actes illicites de violence dans les aéroports servant à l'aviation civile internationale, complémentaire à la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, faite à Montréal le 23 septembre 1971 – Montréal, 24 février 1988
6. Convention sur la protection physique des matières nucléaires – Vienne, 3 mars 1980

Conventions et protocole signés mais non encore ratifiés

1. Convention internationale pour la répression des attentats terroristes à l'explosif – New York, 15 décembre 1997
2. Convention internationale pour la répression du financement du terrorisme – New York, 10 janvier 2000
3. Convention sur le marquage des explosifs plastiques et en feuilles aux fins de détection – Montréal, 1er mars 1991
4. Convention sur la répression d'actes illicites contre la sécurité de la navigation maritime – Rome, 10 mars 1988
5. Protocole pour la répression d'actes illicites contre la sécurité des plates-formes fixes situées sur le plateau continental – Rome, 3 mars 1988

Convention à accéder

1. Convention sur la prévention et la répression des infractions contre les personnes jouissant d'une protection internationale, y compris les agents diplomatiques – New York, 14 décembre 1973

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Botswana, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) pp Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72029 (E) 070102 170102

Annex

[Original: English]

Letter dated 22 December 2001 from the Permanent Mission of Botswana to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit herewith a report pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Leutlwetse **Mmualefe**
Acting Ambassador

Enclosure

Report by the Government of the Republic of Botswana pursuant to Security Council resolution 1373 (2001)

Introduction

The Government of Botswana is strongly committed to the full and effective implementation of the Security Council resolutions on terrorism. In this regard, the Government has established a National Anti-Terrorism Committee, and its mandate is to ensure that Botswana fully abides by its obligations under these resolutions, in particular resolution 1373 (2001).

The Anti-Terrorism Committee is composed of officials from the following:

1. The Ministry of Foreign Affairs, which chairs the Committee;
2. The Office of the President;
3. The Attorney-General's Chambers;
4. The Department of Civil Aviation;
5. The Botswana Defence Force;
6. The Botswana Police;
7. The Department of Customs and Excise;
8. The Department of Immigration and Citizenship;
9. The Bank of Botswana.

The Committee has met several times and taken a number of steps to ensure that all the provisions of resolution 1373 (2001) are fully implemented. These steps include the enforcement of financial laws and regulations, immigration control, aviation security, asylum control and other law enforcement measures.

Measures taken to prevent and suppress the financing of acts of terrorism

The Government of Botswana has instituted strict measures to ensure that funds owned by the nationals of Botswana or funds in the territory of Botswana are not used to support terrorist activities. Following the terrorists attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, the Bank of Botswana issued a circular to all financial institutions in Botswana with clear instructions that they should take all measures necessary to ensure that they do not provide safe harbour for terrorist actions or activities and to freeze without delay funds and other financial assets of persons who may be suspected of participating in terrorist activities.

The Government of Botswana is happy to report that, so far, no activities have been detected to suggest that Botswana's financial institutions could have been used to make funds, financial assets or financial services available, directly or indirectly for the benefit of persons involved in terrorist activities. This is largely due to the country's strict laws on money-laundering.

The measures in place include a number of laws aimed at criminalizing money-laundering and enhancing the capacity of the law enforcement agencies to deal with this crime. The first such law is the Proceeds of Serious Crimes Act of 1990, the object of which is to deprive persons convicted of serious crimes of the benefit or rewards gained from such crimes. The Act explicitly proscribes the conduct of money-laundering and prescribes a relatively high sentence upon conviction.

During the same year, Botswana enacted the Mutual Assistance in Criminal Matters Act. The import of this legislation is to facilitate mutual assistance between Botswana and countries which have reciprocal application of its provisions. It is an instrument through which the primary objectives of the Proceeds of Serious Crimes Act are executed across our borders. To a great extent, it runs parallel to the Extraditions Act of 1990.

Additionally, and subsequent thereto, Botswana enacted the Corruption and Economic Crime Act in 1994, and the Banking Act in 1995. By the former Act, a Directorate on Corruption and Economic Crime was established, which is a law enforcement agency charged with the task of investigating and prosecuting serious economic crimes, corruption, and money-laundering offences.

The Banking Act of 1995 provides for, among other things, unfettered access of the law enforcement agencies to information on bank accounts and entrenches the "know your customer principle" and creates an obligation on banks and their external auditors to report suspicious transactions to the Central Bank and/or law enforcement agencies.

The Banking Act of 1995 also incorporates guidelines for the identification of customers, the proper keeping of customers' records, reporting of suspicious transactions and cooperation with law enforcement agencies. These measures form the core elements of Botswana's anti-money-laundering programme.

Botswana has also paid particular attention to the requirements that measures be undertaken to detect and monitor cash or capital movements through its borders (without impeding the freedom of proper capital transfers). To this end, travellers in and out of Botswana are required to declare any funds equivalent to 10,000 pula (US$ 1=P7) or more in their possession at any point of entry or exit. Similarly, banks are required to complete forms for outward transfers of money equivalent to P10,000 or more.

The Banking Act also allows the Bank of Botswana to share information with other supervisory authorities around the world.

The Directorate on Corruption and Economic Crime and the Central Bank have developed an effective working relationship on matters relating to financial crimes, and that relationship has contributed towards the development of formal measures to combat money-laundering activities.

In response to the recognition by the Government that exchange controls hinder economic development, Botswana abolished exchange controls beginning 9 February 1999. However, as it was recognized that some aspects of the exchange control arrangements served to hinder money-laundering, a directive issued to banks by the Central Bank following the abolition of exchange controls ensured that those aspects were retained.

The Bank of Botswana has also recently issued revised guidelines establishing minimum standards and practices by financial institutions for effective anti-money-laundering programmes.

Measures taken to prevent support for terrorist activities

General legislative measures

Botswana has never provided any form of assistance or support to entities or persons involved in terrorist activities. In addition, no nationals of Botswana are known to have participated in the activities or to be members of any terrorist group.

In addition to the laws mentioned above, Botswana has also enacted the statutes hereunder listed to enable it to meet its international obligations to combat crime in all its forms, including offences of terrorism:

(a) *Arms and Ammunition Act, Cap. 24:01*

This statute limits access to firearms by persons other than the disciplined forces. The Act empowers the Commissioner of Police to regulate the issuing of arms certificates. Under the same Act, the Botswana Police is empowered to investigate cases involving arms and ammunition trafficking;

(b) *Extradition Act, 1990 (No. 18/1990) and Extradition Amendment Act, 1997 (No. 9/1997)*

This piece of legislation deals with extradition to and from Botswana of fugitive offenders;

(c) *Drugs and Related Substances Act (No. 18/1992)*

This Act is aimed at combating incidents of drug smuggling.

We believe that the aforelisted statutory acts have contributed in no small measure to the prevention of the commission of terrorist acts in Botswana; enabled us to prohibit the recruitment of nationals of Botswana into terrorist groups; and prevented the supply of weapons to terrorists through the territory of Botswana.

Measures regarding the movement of goods through the territory of Botswana

The Customs and Excise Duty Act of 1970 empowers the Botswana Customs Authorities to impose restrictions on the importation of any materials that do not comply with laws of Botswana. Customs officers are empowered by said Act to stop any vehicle or aircraft, including persons, for search to determine whether the goods being carried or conveyed are in compliance with the provisions of the Act or any other Botswana laws. The goods which cannot be allowed through our borders include controlled diamonds, arms and ammunition, controlled drugs and money-laundering.

In discharging this function, the Customs Authorities collaborate with other law enforcement agencies, such as the Police, Immigration, and the Directorate on Corruption and Economic Crime. The Authorities also collaborate with their counterparts regionally and internationally.

Regional and international cooperation

Botswana is a member of the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO). The establishment of SARPCCO has allowed the countries of southern Africa to share information in connection with criminal activities, investigations and proceedings relating to all kinds of crimes, including acts of terrorism. For example, member States have recently agreed to conduct what is called the Project Diamante Operation. This operation allows member countries to work together and share information on crimes involving stolen motor vehicles, arms and ammunitions trafficking and drug smuggling and trafficking in the region.

Botswana is also a member of Interpol and participates in all the meetings of its General Assembly. For example, we participated at the recent ICPO Interpol General Assembly meeting, and were party to the decision of the meeting which called upon all member States to collaborate to the fullest extent permitted by law, in identifying individuals who may have assisted in committing acts of terrorism and bringing them to justice.

Aviation security

Botswana took immediate measures after the 11 September 2001 attacks to reinforce aviation security at its airports. Special attention has been given to limiting access to restricted areas and to remedy deficiencies in the screening of passengers and their baggage. The access points have been reduced at night for ensuring better and effective control. We have 100 per cent screening of hold baggage.

The situation is kept under constant review with the help of the airlines and the non-scheduled operators. Security awareness lectures and training for security personnel is also being undertaken. A report on the aviation security measures undertaken has been submitted to the Regional Director, International Civil Aviation Organization (ICAO), in Nairobi, Kenya.

Botswana's Aviation Security Act 1993 incorporates the main ICAO aviation security conventions, namely:

(a) The Convention on Offences and Certain Other Acts committed on Board Aircraft (signed at Tokyo on 14 September 1963);

(b) The Convention for the Suppression of Unlawful Seizure of Aircraft (signed at The Hague on 16 December 1970);

(c) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (signed at Montreal on 23 September 1971).

This Act provides for stringent penalties for persons caught committing or attempting to commit, aid, abet, counsel or procure persons to commit offences against civil aviation.

Anti-terrorism conventions

Botswana has signed and ratified the following anti-terrorism conventions:

- The 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- The 1970 Hague Convention for the Suppression of the Unlawful Seizure of Aircraft;

- The 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aviation;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection;
- Convention on the Physical Protection of Nuclear Material;
- International Convention against the Taking of Hostages;
- Convention on the Prevention and Punishment of Crime against Internationally Protected Persons, including Diplomatic Agents;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- International Convention for the Suppression of the Financing of Terrorism;
- International Convention for the Suppression of Terrorist Bombings;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

The Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air are being considered for ratification. It is expected that the instruments of ratification will be deposited before March 2002.

A number of the provisions of these instruments have been incorporated in the Botswana National Security Act of 1986. The thrust of this Act is to proscribe any conduct intended to assist persons from aiding any foreign Power to the detriment of the security and safety of Botswana. Where citizens or persons owing allegiance to Botswana commit any acts of terrorism, said acts are punishable under this Act. Regarding those provisions which Botswana has not yet incorporated into its domestic legislation, a number of administrative procedures and mechanisms are in place to ensure their implementation.

Immigration control

Botswana has established very strict regulations on the movement of persons through its borders. There are strict requirements regulating the movement of people to and from Botswana.

Procedures/mechanisms for asylum seekers and refugees

With specific reference to operative paragraph 3 (f) of resolution 1373 (2001), there are clear procedures in place which serve to screen and isolate people guilty of criminal activities from genuine asylum seekers. Where this is ascertainable, those individuals have been kept outside the refugee protection regime.

Regarding paragraph 3 (g), which requires countries to be on guard against abuses of the institution of asylum where people may claim political motivation in order to avoid extradition, again Botswana has been very vigilant. Where the claim of political motivation is not supported by evidence, the affected individuals are subjected to extradition proceedings. This was the case prior to the 11 September 2001 attacks.

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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Belarus, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72098 (E) 220102 230102

Annex

Letter dated 21 December 2001 from the Permanent Representative of Belarus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Russian]

On instructions from my Government, I have the honour to transmit to you herewith the report of the Republic of Belarus to the Counter-Terrorism Committee, submitted in accordance with paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

The Government of the Republic of Belarus stands ready to provide the Committee with additional reports or information that may be required or requested by the Committee.

I should be grateful if you would have this letter and the attached report circulated as a document of the Security Council.

(*Signed*) Sergei **Ling**
Ambassador
Permanent Representative

Enclosure

Report of the Republic of Belarus on implementation of Security Council resolution 1373 (2001)

Paragraph 1

On 18 October 2001, under the guidance of the President of the Republic of Belarus A. G. Lukashenka, a meeting of the Belarusian Security Council was held to address the world situation following the terrorist acts of 11 September 2001 in United States territory and their consequences for the international community. Taking account, inter alia, of Security Council resolution 1373 (2001), a Decree of the Belarusian Security Council and a Plan of Additional Measures to Strengthen the Fight Against Terrorism were adopted.

The Plan in question envisages implementation of a range of institutional, judicial and practical measures, including:

- Harmonization of Belarusian legislation with the provisions of Security Council resolution 1373 (2001) on counter-terrorism;
- Checks on banks to trace accounts through which terrorist organizations might be financed, including measures to freeze any traced accounts and to identify their originators.

The following legislation establishes the basis for monitoring banking operations in the Republic of Belarus:

- Act of 19 July 2000 "On measures to prevent the legalization of funds obtained by illegal means". This Act governs the procedure for monitoring financial operations subject to special oversight, including the international transfer of funds from areas where the relevant State agencies have reported illicit production of narcotic drugs or psychotropic substances or a concentration of significant funds belonging to or destined for persons regarding whom there are sufficient grounds for suspecting that they are involved in the illicit production or distribution of weapons and/or in international crime;
- Act of 26 June 1997 "On measures to combat organized crime and corruption;
- Banking Code;
- Criminal Code;
- Code of Criminal Procedure.

Domestic legislation also regulates questions concerning the freezing of accounts. The attachment and forfeiture of funds or other property held in a bank and belonging to physical or judicial persons may occur following:

- A court decision or ruling;
- A decree issued by a body of inquiry and preliminary investigations in cases covered by the Code of Criminal Procedure;
- A decision of the tax authorities in cases covered by Belarusian legislation.

No information is currently available on the tracing of accounts through which terrorist organizations might be financed.

Paragraph 2 (a), (d), (e)

At the national level, the legal basis for the counter-terrorist efforts of competent bodies of the Republic of Belarus is as follows:

- Criminal Code;
- Code of Criminal Procedure;
- Decree No. 185 of the President of the Republic of Belarus of 31 March 1998 enacting the Statute on coordination of efforts of special subunits of law enforcement agencies and other State bodies to combat terrorism, organized crime and corruption;
- Directive No. 272 (by order of the President) of 23 September 1999 on supplementary measures for ensuring public security and preventing extremist and terrorist acts in the territory of the Republic of Belarus.

It is noteworthy that, in the context of new and emerging approaches in the world to the problem of counter-terrorism, the Republic of Belarus has managed to avoid the active manifestation of terrorism, the formation of terrorist groupings and the factors causing such phenomena, thanks largely to the existing normative legal basis in the field of counter-terrorism.

Nevertheless, in order to unify counter-terrorism legislation and in response to new and emerging realities in the international community, the House of Representatives of the National Assembly of Belarus adopted a bill on counter-terrorism in second reading on 11 December 2001.

The bill defines the legal and institutional authority for counter-terrorism, includes a series of measures aimed at preventing, detecting, suppressing and uncovering terrorism-related offences and deals with the range and competence of entities engaged in counter-terrorism and the legal authority for engaging in counter-terrorism.

The bill establishes the President and Council of Ministers as the main entities responsible for spearheading counter-terrorism efforts in the Republic of Belarus. The State Security Committee, the Ministry of Internal Affairs, the Presidential Security Service, the Ministry of Defence and the State Committee on border Troops are the bodies directly responsible for conducting counter-terrorism efforts. An Inter-Departmental Counter-Terrorism Commission is being established to coordinate their activities.

Pursuant to article 4 of the above-mentioned bill, the Republic of Belarus will cooperate on counter-terrorism under international treaties with foreign States, their law enforcement agencies and special services and with international organizations engaged in counter-terrorism. In the interests of ensuring the security of individuals, society and State, the Republic of Belarus will investigate individuals involved in terrorist activities in its territory, including in cases provided for in international treaties where terrorist acts have been planned or conducted outside the frontiers of the Republic of Belarus but have been detrimental to the Republic of Belarus, and in other cases provided for in international treaties to which Belarus is party.

The Criminal Code of the Republic of Belarus (article 126) defines the concept of "international terrorism" inter alia as the organization or execution in the territory of a foreign State of explosions, arson or other acts with a view to causing loss of

life or physical injury, destroying or damaging buildings, installations, means of transport, means of communication or other property for the purpose of provoking international tension or hostilities or destabilizing the internal situation in a foreign State, or assassinating or causing physical injury to a political or public figure of a foreign State, or damaging their property for the same purpose, and establishes criminal liability for such acts.

The Criminal Code also establishes criminal liability for recruitment, training, financing and use of mercenaries (article 132) for the purposes of establishing or participating in a criminal organization (article 285); banditry (article 286); establishment of an illicit armed faction (article 287); terrorism (article 289); threatening to commit an act of terrorism (article 290); hostage-taking (article 291); seizure of buildings and installations (article 292); hijacking a train, aircraft or vessel or their seizure for purposes of hijacking (article 311) and other terrorism-related offences.

Furthermore, acts of violence against representatives of a foreign State or international organization and the kidnapping or holding of such persons against their will for the purpose of provoking international tension or hostilities are defined as punishable offences (article 124 of the Criminal Code).

On 13 November 2001, the Act "On weapons" was adopted, with a view to regulating relations concerning the arms trade in the territory of the Republic of Belarus in order to safeguard the life and health of citizens, protect property, ensure public security, safeguard the environment and natural resources and strengthen international cooperation to combat crime and the illicit distribution of weapons.

Thanks to the Republic's stringent export control system, which meets international standards, the export of weapons can take place only through the official channels of the importing country and subject to compliance with all international norms governing the transfer of weapons and military technology.

Order No. 272 of the President of the Republic of Belarus of 23 September 1999 gave effect to the Statute on supplementary measures for ensuring public security and averting extremist and terrorist acts in the territory of the Republic of Belarus. It envisages, inter alia:

- Establishment of an ongoing and institutionalized exchange of information between corresponding bodies in neighbouring countries on threatened and actual terrorist and extremist acts with a view to their prevention and investigation;
- Enhanced protection of transport networks, administrative buildings and facilities that manufacture, use or store weapons, ammunition, explosives, toxic or radioactive substances;
- Operations to suppress illicit trade in weapons, explosives, toxic substances and other means of attack, as well as to curb illegal migration;
- Introduction at entry points on the national border of a series of supplementary measures for detecting weapons, ammunition, explosives and toxic substances;
- Special monitoring of procedures for issuing permits for the movement of industrially manufactured radioactive, explosive, highly poisonous or toxic substances, explosives and explosive devices;

– Organization of a comprehensive inspection of weapons-manufacturing enterprises and facilities for storing or utilizing ammunition and explosives.

Regarding practical measures for suppressing illicit trade in weapons and explosives in the Republic of Belarus, two "Arsenal" special operations were organized and conducted in 2000 (March-April and September-October) involving a series of operational, investigative and precautionary measures to verify observance by juridical persons and individuals of the rules governing the storage and use of weapons and to identify cases of illicit weapons trading in the territory of the Republic of Belarus. Following measures taken in respect of the illicit carrying and keeping of firearms and explosives, 21 persons were held criminally liable and 1,998 weapons permits were withdrawn. More than 3,000 illicit weapons were seized and 7,674 persons were held administratively liable for various infringements of the permit system.

In the Republic of Belarus, a total of 1,253 facilities make regular use of explosive substances, while 2,396 economic entities engage in the transport of dangerous, explosive and inflammable goods.

In 2001, to date, State authorities have identified 1,110 facilities and 662 cases involving the infringement of procedures for the storage and keeping of weapons, as well as 17 individuals engaged in the manufacture of weapons, explosives and explosive devices and 29 persons combing Great Patriotic War zones for weapons and ammunition; they have also seized 141 weapons, 3,197 pieces of ammunition, 74 explosive devices and 7.45 kg of explosives.

In September 2000, the Committee on Organized Crime and Corruption under the Ministry of Internal Affairs of Belarus and corresponding units of the Ministry of Internal Affairs of Ukraine conducted a joint special operation entitled "Alien" in the Volynsky district to identify organized criminal groups involved in illicit trade in weapons, narcotic drugs and illicit migration and to forestall possible terrorist acts in frontier areas.

The competent authorities are also engaged on an ongoing basis in activities to suppress illegal migration and to strengthen control over arrangements governing the stay of aliens and stateless persons in the territory of the Republic of Belarus. Recently, these have included the design and implementation of special operations named "Illegal", "Clear Sweep" and "Private abode", with a view to stepping up investigations in the housing sector, hotels, stations, markets and hostels in order to trace persons illegally present in Belarusian territory and adopt preventive measures to identify entities liable to engage in terrorist activities.

Paragraph 2 (c)

Asylum questions in the Republic of Belarus are dealt with in the Constitution of Belarus, the Act of 2 July 1993 "On the legal status of aliens and stateless persons in the Republic of Belarus", with amendments and additions introduced by the Act of 18 July 2000, in international treaties and other legislation, including the Statute on the procedure for consideration of questions of asylum for aliens and stateless persons, enacted by Decree No. 229 of the President of the Republic of Belarus of 29 November 2001.

In accordance with the above-mentioned Statute, asylum may be granted to aliens and stateless persons located in the territory of the Republic of Belarus who

have been forced to leave their countries of residence as a result of persecution because of their political or religious convictions (provided they do not advocate enmity between people or harm their health) or their national affiliation.

When considering applications and issuing papers concerning the granting of asylum, the competent authorities of the Republic of Belarus request the necessary documents and ascertain the arrival circumstances, the reasons for the applicant's presence in the territory of the Republic of Belarus, personal details and means of livelihood, as well as other circumstances meriting attention.

It should be noted that a Decree of the President of the Republic of Belarus "On the introduction of amendments and additions to the Statute on the procedure for consideration of questions of asylum for aliens and stateless persons" is currently being drafted. It is intended, inter alia, to clearly establish the grounds for refusing asylum (the individual concerned has committed an offence against peace, a war crime or a crime against humanity, a serious crime of a non-political character outside the country prior to arrival in its territory, etc.) and the grounds for cancelling the right to asylum in the Republic of Belarus.

Paragraphs 2 (b) and (f)

The country's special services are working continuously to gather intelligence concerning international extremist and terrorist organizations and other criminal groups engaged in the selling of arms and explosives. Security officers working in Belarusian diplomatic missions and institutions abroad have initiated an exchange of information with the special services of the host countries on the forms and methods of activity of terrorist organizations and on individuals suspected of planning to commit terrorist acts.

Cooperation has been organized in the Armed Forces of the Republic of Belarus with the Republic's law enforcement ministries and with the Headquarters of the Armed Forces of the Russian Federation in exchanging information. The operations duty service in the Headquarters of the commander of the internal security troops of the Ministry of Internal Affairs and the duty officer in the command and control facility of the chief of the Armed Forces' chemical warfare troops are sharing information on changes in the radiation, chemical and biological situation at potentially dangerous installations of both the national economic complex and the Armed Forces.

Bilateral Belarusian-Lithuanian consultations were held on 26 and 27 November 2001 in Kaunas, Republic of Lithuania, concerning cooperation between the Republic of Belarus and the Republic of Lithuania in air defence and in ensuring the security of the Ignalina atomic power station.

One of the main forms of cooperation among the law enforcement agencies of the CIS member States in combating terrorism and other manifestations of extremism is the exchange of information of mutual interest.

The Ministry of Internal Affairs of the Republic of Belarus currently has a copy of a database developed by the Ministry of Internal Affairs of the Russian Federation containing basic data on persons of Chechen nationality wanted by the Russian law enforcement agencies for terrorist activities.

The subdivisions of the Ministry of Internal Affairs of Belarus are taking steps to detect and suppress the activities of criminal individuals belonging to criminal ethnic groups. Twenty-four ethnic groups with a total of more than 300 members are listed in the automated databank of the Ministry's Committee on Combating Organized Crime and Corruption.

Special information on individuals and organized criminal formations is also exchanged through the Office for the Coordination of the Fight against Organized Crime and Other Dangerous Forms of Crime in the Territory of the Commonwealth of Independent States.

In implementation of Decree No. 137 of the President of the Republic of Belarus of 5 April 1996 "On the creation of a databank for special information" and in accordance with the letter of the State Secretary of the Security Council of 23 October 1997 on measures for combating terrorism in the territory of the Republic of Belarus, special information on the following matters is transmitted by the Ministry of Internal Affairs of Belarus on a monthly basis for entry in the databank, which is managed by the Republic's State Security Committee:

- Preparation and commission of terrorist acts in the territory of the Republic of Belarus and other States;
- Individuals and groups involved in the activities of terrorist and extremist organizations and illegal armed formations;
- Illegal transfers of virulent, toxic, poisonous and radioactive substances, explosives, arms and ammunition, special materials and military hardware.

In order to consolidate the efforts of the law enforcement agencies of the CIS member States to combat terrorism and other manifestations of extremism and to intensify the fight against illicit trafficking in arms, explosives and ammunition, an Agreement concerning Cooperation among Ministries of Internal Affairs in Combating Terrorism was signed on 8 September 2000 in Cholpon-Ata, Kyrgyzstan. The Republic of Belarus has acceded to this Agreement pursuant to decision No. 608 of the Council of Ministers of Belarus of 27 April 2001.

The basic forms of cooperation among internal affairs organs under this Agreement are as follows:

- Exchanging information of mutual interest on planned terrorist acts; terrorist infringements aimed at violating the sovereignty and territorial integrity of States; terrorist and other extremist organizations and groups, their tactics and methods, their leaders and members, and individuals involved in the activities of such organizations and groups; illegal armed formations using terrorist and other extremist methods of combat; and cases of illicit trafficking in nuclear materials, chemical and biological weapons or their components, etc.;
- Responding to enquiries regarding operational and investigative measures aimed at preventing, detecting, suppressing and investigating terrorist or other extremist crimes, hostage taking, kidnapping and illicit trafficking in arms and ammunition, etc.;
- Developing and implementing coordinated measures aimed at suppressing the activities of terrorist groups and organizations, cutting off their channels of

financial, military, technical and other support, and identifying terrorist bases and training camps, etc.

Paragraph 2 (g)

The State Committee on Border Troops of the Republic of Belarus is taking the following measures to implement the provisions of resolution 1373 (2001), the normative documents concerning the fight against terrorism and the plan of additional measures to counteract terrorism of 18 October 2001:

- Border controls have been tightened in respect of persons entering Belarus from countries and regions in which terrorists are active;
- Persons and vehicles are being thoroughly and carefully examined for the purpose of detecting arms, ammunition, explosives, poisonous substances and other means of terror and sabotage;
- Thorough checks are being made in relation to persons who are being held in administrative detention and are from countries and regions from which terrorism may emanate;
- Work on the preparation for the creation of an automated passport control system has been stepped up;
- Border troop units are being supplied with modern technical equipment for examining vehicles and cargoes;
- Cooperation has been organized with the 139th border forces cover detachment of the Russian Federal Border Service. Joint arrangements are being made to follow up processes occurring in the Russian-Belarusian sector of the border.

Within the framework of efforts to counteract illegal migration and to strengthen control over arrangements for the stay of aliens and stateless persons in the territory of the Republic of Belarus, the special services have designed and are carrying out operations aimed at identifying persons present in the territory of the Republic with no legal basis, as well as taking preventive measures to identify potential terrorist targets.

Persons suspected of involvement in international extremist and terrorist organizations are being stopped from entering Belarus.

Border controls have been tightened in respect of persons entering Belarus from countries and regions where terrorists are active.

In implementation of the decision of the Joint Board of the Ministry of Internal Affairs of the Republic of Belarus and the Ministry of Internal Affairs of the Russian Federation, a joint special operation, "Operation Border", is being conducted in regions of the Russian Federation, Belarus and Ukraine adjacent to the border. The internal affairs organs have developed a system of cooperation for the purpose of strategic border closures and for cutting off the channels for illegal migration and illicit trafficking in arms, ammunition, explosives and explosive devices, narcotic drugs and psychotropic substances.

The Ministries of Internal Affairs of Belarus and the Russian Federation are cooperating closely in suppressing illegal activities by persons engaged in the trade in arms and explosives and disposed to commit acts of terrorism in its various forms

and in counteracting ethnic criminal formations. A databank has been created and new data are being added on persons working with pyrotechnic devices or explosives and persons engaged in the manufacture and repair of arms or the illegal manufacture of arms, ammunition and explosives, and on enterprises, organizations and institutions using explosives in their activities and economic entities providing financial or other support to organized criminal formations.

Paragraph 3 (a) to (e) and paragraph 4

The Republic of Belarus has become a party to the majority of the universal conventions on counter-terrorism:

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly on 14 December 1973;

5. International Convention against the Taking of Hostages, adopted by the United Nations General Assembly on 17 December 1979;

6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980;

7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988;

8. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;

9. International Convention for the Suppression of Terrorist Bombings, adopted by the United Nations General Assembly on 15 December 1997.

The Republic of Belarus is taking legislative and other necessary measures for the proper implementation of these international instruments.

The Republic of Belarus is currently completing the domestic procedures necessary for the entry into force of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf of 10 March 1988, which were signed by the Republic of Belarus on 2 March 1989.

During the fifty-sixth session of the United Nations General Assembly, Belarus signed the International Convention for the Suppression of the Financing of Terrorism, adopted by the Assembly on 9 December 1999.

In addition, cooperation between the law enforcement agencies of the Republic of Belarus and the law enforcement agencies of other States in combating terrorism is being implemented on the basis of the following bilateral international treaties:

- Memorandum of Understanding between the Government of the Republic of Belarus and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Cooperation in the Fight against Illicit Trafficking in Narcotic Drugs, Organized Crime and International Terrorism (signed in London on 13 March 1995);
- Agreement between the Government of the Republic of Belarus and the Government of the Republic of Turkey concerning Cooperation in the Fight against International Organized Crime, International Trafficking in Narcotic Drugs and International Terrorism (signed in Ankara on 24 July 1996);
- Agreement between the Ministries of Internal Affairs of the Republic of Belarus and the Republic of Bulgaria concerning Cooperation in the Fight against Crime (signed in Sofia on 13 September 1994);
- Agreement between the Ministry of Internal Affairs of the Republic of Belarus and the Ministry of Internal Affairs of Romania concerning Cooperation in the Fight against Crime (signed in Bucharest on 22 May 1996);
- Agreement between the Ministries of Internal Affairs of the Republic of Belarus and the Republic of Poland concerning Cooperation in the Fight against Crime (signed in Warsaw on 24 April 1992);
- Agreement on Cooperation between the Ministry of Internal Affairs of the Republic of Belarus and the Ministry of Internal Affairs of the Republic of Lithuania (signed in Vilnius on 16 July 1993);
- Agreement on Cooperation between the Ministry of Internal Affairs of the Republic of Belarus and the Ministry of Public Security of the Socialist Republic of Viet Nam (signed in Minsk on 23 October 2000);
- Agreement on Cooperation between the Ministry of Internal Affairs of the Republic of Belarus and the Ministry of Public Security of the People's Republic of China (signed in Beijing on 23 April 2001).

Currently, the Republic of Belarus is also working to conclude international treaties containing provisions on measures to combat terrorism with the following States: the Republic of Lithuania, the Czech Republic, the Slovak Republic, the Republic of Poland, the Federal Republic of Yugoslavia, the Kingdom of Sweden, the Islamic Republic of Iran and the Republic of India.

The following international treaties form the legal basis for the cooperation between the law enforcement agencies of the Republic of Belarus and the law enforcement agencies of the CIS member States:

- Inter-State Programme of Joint Measures to Combat Crime for the Period 2000-2003 (approved by the decision of the Commonwealth's Council of Heads of State of 25 January 2000);
- Programme of CIS Member States to Combat International Terrorism and Other Forms of Extremism up to the Year 2003 (approved by the decision of the Commonwealth's Council of Heads of State of 21 June 2000);

- Decision on the establishment of the CIS Anti-Terrorist Centre (Moscow, 21 June 2001);
- Agreement on Cooperation among CIS Member States in the Fight against Crime (signed in Moscow on 25 November 1998);
- Agreement on Cooperation among the Ministries of Internal Affairs of the independent States in the Fight against Crime (signed in Almaty on 24 April 1992);
- Agreement on Interrelations between Ministries of Internal Affairs in the Exchange of Information (signed in Cholpon-Ata on 3 August 1992);
- Agreement on Cooperation among Ministries of Internal Affairs in the Fight against Terrorism (signed in Cholpon-Ata on 8 September 2000).

In addition, the Ministry of Internal Affairs of the Republic of Belarus has concluded bilateral interdepartmental agreements on cooperation with the Ministries of Internal Affairs of Ukraine, Turkmenistan, Moldova, Armenia, Georgia, Kazakhstan, Tajikistan, Kyrgyzstan, the Russian Federation, Uzbekistan and Azerbaijan.

Paragraph 3 (f) and (g)

Overall, the Republic of Belarus has a full complement of legislation on migration. Acts of the Republic of Belarus "On refugees" (1995, amended and supplemented in 1999), "On internal labour migration" (1998) and "On immigration" (1998) have been adopted, taking into account the universally recognized norms and principles of international law. On 4 May 2001, the Act of the Republic of Belarus on accession to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto was adopted. The Convention relating to the Status of Refugees entered into force for the Republic of Belarus on 21 November 2001 and the Protocol on 23 August 2001. A bill amending and supplementing certain legislative acts of the Republic of Belarus in connection with Belarus's accession to the Convention and Protocol relating to the Status of Refugees is now in the process of being agreed.

It should also be noted that, in order to determine which persons really need to be granted refugee status, applications for asylum are being examined by the migration services with the involvement of the Ministry of Internal Affairs and the State Security Committee of the Republic of Belarus, taking into account convincing facts and information provided by the applicants.